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SEAL FISHERIES OF BEHRING SEA.

MESSAGE

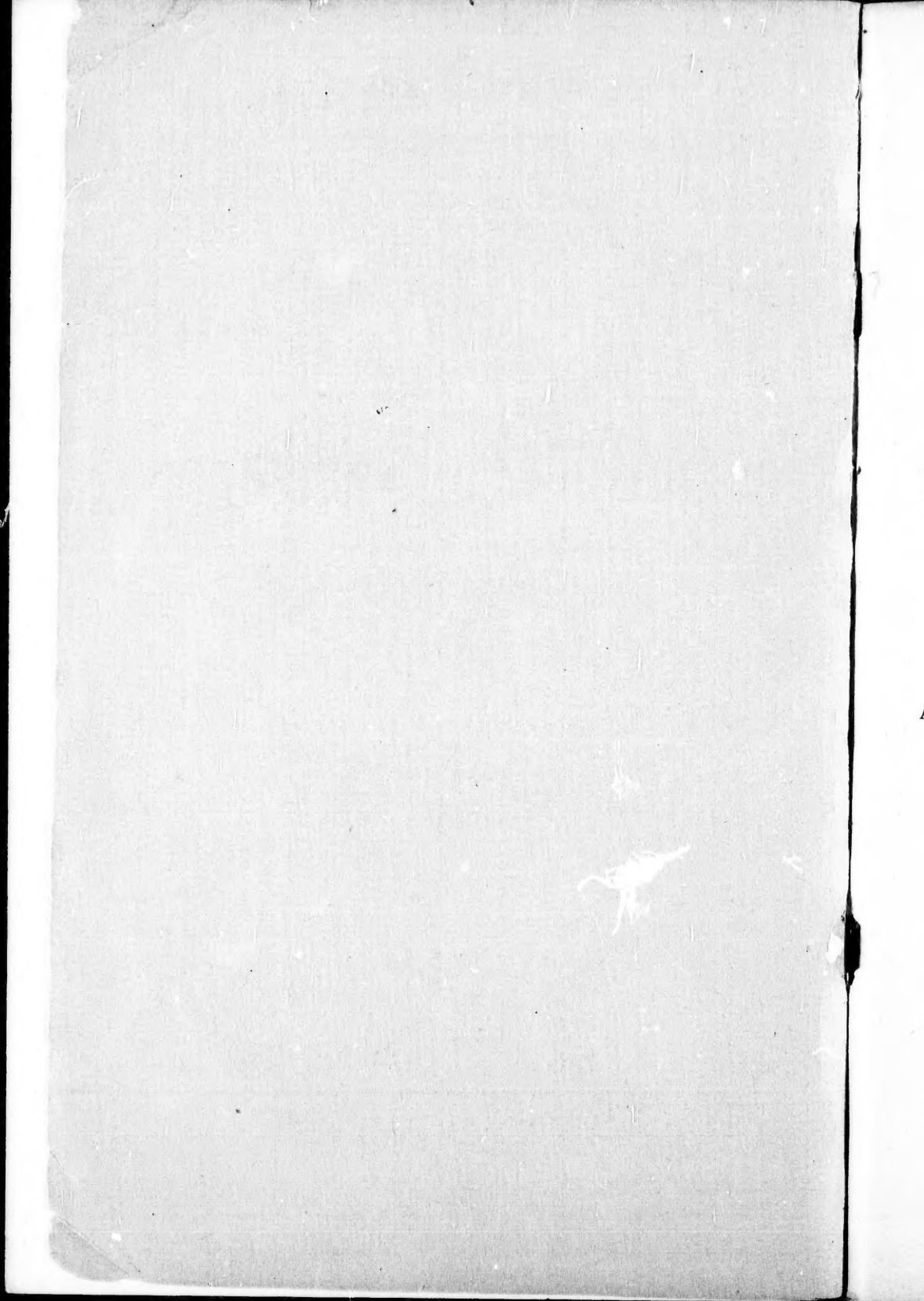
FROM THE

PRESIDENT OF THE UNITED STATES

TRANSMITTING

A LETTER FROM THE SECRETARY OF STATE, WITH ACCOMPANYING
PAPERS, TOUCHING THE SUBJECTS IN DISPUTE BETWEEN THE
GOVERNMENT OF THE UNITED STATES AND THE GOV-
ERNMENT OF GREAT BRITAIN IN THE BEHRING
SEA, INCLUDING ALL COMMUNICA-
TIONS SINCE MARCH 4, 1889.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1890.



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SEAL FISHERIES OF BEHRING SEA.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A letter from the Secretary of State, with accompanying papers, touching the subjects in dispute between the Government of the United States and the Government of Great Britain in the Behring Sea, including all communications since March 4, 1889.

JULY 23, 1890.—Referred to the Committee on Foreign Affairs.

To the House of Representatives:

In response to the resolution of the House of Representatives, requesting me, if in my judgment not incompatible with the public interest, to furnish to the House the correspondence since March 4, 1889, between the Government of the United States and the Government of Great Britain touching the subjects in dispute in the Behring Sea, I transmit a letter from the Secretary of State which is accompanied by the correspondence referred to in the resolution.

BENJ. HARRISON.

EXECUTIVE MANSION,
July 23, 1890.

BAR HARBOR, MAINE, July 19, 1890.

To the PRESIDENT:

The official correspondence between the Government of the United States and the Government of Great Britain,—touching the seal fisheries of Behring Sea,—whose transmission to the House of Representatives you directed on the 11th instant, is herewith submitted. All communications since March 4, 1889, are included. A map will accompany my dispatch of June 30, 1890. I sincerely regret the delay in transmission. The correspondence is still in progress.

I am, sir, with great respect, your obedient servant,

JAMES G. BLAINE.

LIST OF ACCOMPANYING PAPERS.

- No. 1. Mr. Edwardes to Mr. Blaine, August 24, 1889.
- No. 2. Mr. Blaine to Mr. Edwardes, August 24, 1889.
- No. 3. Mr. Edwardes to Mr. Blaine, August 25, 1889.
- No. 4. Mr. Edwardes to Mr. Blaine, September 12, 1889.
- No. 5. Mr. Blaine to Mr. Edwardes, September 14, 1889.
- No. 6. The Marquis of Salisbury to Mr. Edwardes, October 2, 1889.
- No. 7. The Marquis of Salisbury to Mr. Edwardes, with an inclosure, October 2, 1889.
- No. 8. Mr. Edwardes to Mr. Blaine, October 14, 1889.
- No. 9. Mr. Blaine to Sir Julian Pauncefote, January 22, 1890.
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- No. 11. Mr. Blaine to Sir Julian Pauncefote, with an inclosure, March 1, 1890.
- No. 12. Sir Julian Pauncefote to Mr. Blaine, with an inclosure, March 9, 1890.
- No. 13. Sir Julian Pauncefote to Mr. Blaine, with an inclosure, received April 30, 1890.
- No. 14. The Marquis of Salisbury to Sir Julian Pauncefote, with an inclosure, May 22, 1890.
- No. 15. Sir Julian Pauncefote to Mr. Blaine, May 23, 1890.
- No. 16. Mr. Blaine to Sir Julian Pauncefote, May 26, 1890.
- No. 17. Mr. Blaine to Sir Julian Pauncefote, May 29, 1890.
- No. 18. Mr. Blaine to Sir Julian Pauncefote, June 2, 1890.
- No. 19. Sir Julian Pauncefote to Mr. Blaine, June 3, 1890.
- No. 20. Mr. Blaine to Sir Julian Pauncefote, June 4, 1890.
- No. 21. Sir Julian Pauncefote to Mr. Blaine, June 6, 1890.
- No. 22. Sir Julian Pauncefote to Mr. Blaine, extract from telegram from the Marquis of Salisbury, received June 9, 1890.
- No. 23. Mr. Blaine to Sir Julian Pauncefote, June 11, 1890.
- No. 24. Sir Julian Pauncefote to Mr. Blaine, June 11, 1890.
- No. 25. Sir Julian Pauncefote to Mr. Blaine with an inclosure, June 14, 1890.
- No. 26. Sir Julian Pauncefote to Mr. Blaine, June 27, 1890.
- No. 27. Mr. Blaine to Sir Julian Pauncefote, with map, June 30, 1890.
- No. 28. Sir Julian Pauncefote to Mr. Blaine, with an inclosure, June 30, 1890.
- No. 29. Sir Julian Pauncefote to Mr. Blaine, June 30, 1890.
- No. 30. Mr. Blaine to Sir Julian Pauncefote, July 2, 1890.
- No. 31. Mr. Blaine to Sir Julian Pauncefote, July 19, 1890.

No. 1.

Mr. Edwardes to Mr. Blaine.

BAR HARBOR, August 24, 1889.

SIR: In accordance with instructions which I have received from Her Majesty's Principal Secretary of State for Foreign Affairs, I have the honor to state to you that repeated rumors have of late reached Her Majesty's Government that United States cruisers have stopped, searched, and even seized British vessels in Behring Sea outside of the 3-mile limit from the nearest land. Although no official confirmation of these rumors has reached Her Majesty's Government there appears to be no reason to doubt their authenticity.

I am desired by the Marquis of Salisbury to inquire whether the United States Government are in possession of similar information, and further to ask that stringent instructions may be sent by the United States Government, at the earliest moment, to their officers, with the view to prevent the possibility of such occurrences taking place.

In continuation of my instructions I have the honor to remind you that Her Majesty's Government received very clear assurances last year from Mr. Bayard, at that time Secretary of State, that pending the discussion of the general questions at issue no further interference should take place with British vessels in Behring Sea.

In conclusion, the Marquis of Salisbury desires me to say that Sir Julian Pauncefote, Her Majesty's Minister, will be prepared on his return to Washington in the autumn to discuss the whole question, and Her Majesty's Government wish to point out to the United States Government that a settlement can not but be hindered by any measures of force which may be resorted to by the United States.

I have, etc.,

H. G. EDWARDES.

No. 2.

Mr. Blaine to Mr. Edwardes.

BAR HARBOR, August 24, 1889.

SIR: I have the honor to acknowledge the receipt of your communication of this date, conveying to me the intelligence "that repeated rumors have of late reached Her Majesty's Government that United States cruisers have stopped, searched, and even seized British vessels in Behring Sea outside the 3-mile limit from the nearest land." And you add that, "although no official confirmation of these rumors has reached Her Majesty's Government, there appears to be no reason to doubt their authenticity."

In reply I have the honor to state that the same rumors, probably based on truth, have reached the Government of the United States, but that up to this date there has been no official communication received on the subject.

It has been and is the earnest desire of the President of the United States to have such an adjustment as shall remove all possible ground of misunderstanding with Her Majesty's Government concerning the existing troubles in the Behring Sea; and the President believes that the responsibility for delay in the adjustment can not be properly charged to the Government of the United States.

I beg you will express to the Marquis of Salisbury the gratification with which the Government of the United States learns that Sir Julian Pauncefote, Her Majesty's minister, will be prepared, on his return to Washington in the autumn, to discuss the whole question. It gives me pleasure to assure you that the Government of the United States will endeavor to be prepared for the discussion, and that in the opinion of the President, the points at issue between the two governments are capable of prompt adjustment on a basis entirely honorable to both.

I have, etc.,

JAMES G. BLAINE.

No. 3.

Mr. Edwardes to Mr. Blaine.

BAR HARBOR, August 25, 1889.

SIR: I had the honor to receive yesterday your note in which you have been good enough to inform me, with respect to the repeated rumors which have of late reached Her Majesty's Government of the search and seizure of British vessels in Behring Sea by United States cruisers, that the same rumors, probably based on truth, have reached

the United States Government, but that up to this date there has been no official communication received on the subject.

At the same time you have done me the honor to inform me that it has been and is the earnest desire of the President of the United States to have such an adjustment as shall remove all possible ground of misunderstanding with Her Majesty's Government concerning the existing troubles in the Behring Sea; and that the President believes that the responsibility for delay in that adjustment can not be properly charged to the Government of the United States.

You request me at the same time to express to the Marquis of Salisbury the gratification with which the Government of the United States learns that Sir Julian Pauncefote, Her Majesty's minister, will be prepared on his return to Washington in the autumn to discuss the whole question, and you are good enough to inform me of the pleasure you have in assuring me that the Government of the United States will endeavor to be prepared for the discussion, and that, in the opinion of the President, the points at issue between the two Governments are capable of prompt adjustment on a basis entirely honorable to both.

I shall lose no time in bringing your reply to the knowledge of Her Majesty's Government, who, while awaiting an answer to the other inquiry I had the honor to make to you, will, I feel confident, receive with much satisfaction the assurances which you have been good enough to make to me in your note of yesterday's date.

I have, etc.,

H. G. EDWARDES.

No. 4.

Mr. Edwardes to Mr. Blaine.

WASHINGTON, September 12, 1889.

MY DEAR MR. BLAINE: I should be very much obliged if you would kindly let me know when I may expect an answer to the request of Her Majesty's Government, which I had the honor of communicating to you in my note of the 24th of August, that instructions may be sent to Alaska to prevent the possibility of the seizure of British ships in Behring Sea. Her Majesty's Government are earnestly awaiting the reply of the United States Government on this subject, as the recent reports of seizures having taken place are causing much excitement both in England and in Canada.

I remain, etc.,

H. G. EDWARDES.

No. 5.

Mr. Blaine to Mr. Edwardes.

BAR HARBOR, September 14, 1889.

SIR: I have the honor to acknowledge the receipt of your personal note of the 12th instant, written at Washington, in which you desire to know when you may expect an answer to the request of Her Majesty's Government, "that instructions may be sent to Alaska to prevent the possibility of the seizure of British ships in Behring Sea."

I had supposed that my note of August 24 would satisfy Her Majesty's Government of the President's earnest desire to come to a friendly agreement touching all matters at issue between the two Governments in relation to Behring Sea, and I had further supposed that your mention of the official instruction to Sir Julian Pauncefote to proceed immediately after his arrival in October, to a full discussion of the question, removed all necessity of a preliminary correspondence touching its merits.

Referring more particularly to the question of which you repeat the desire of your Government for an answer, I have the honor to inform you that a categorical response would have been and still is impracticable,—unjust to this Government, and misleading to the Government of Her Majesty. It was therefore the judgment of the President that the whole subject could more wisely be remanded to the formal discussion so near at hand which Her Majesty's Government has proposed, and to which the Government of the United States has cordially assented.

It is proper, however, to add that any instruction sent to Behring Sea at the time of your original request, upon the 24th of August, would have failed to reach those waters before the proposed departure of the vessels of the United States.

I have, etc.,

JAMES G. BLAINE.

No. 6.

The Marquis of Salisbury to Mr. Edwards.

[Left at the Department of State by Mr. Edwards.]

FOREIGN OFFICE, October 2, 1889.

SIR: At the time when the seizures of British ships hunting seals in Behring's Sea during the years 1886 and 1887 were the subjects of discussion the minister of the United States made certain overtures to Her Majesty's Government with respect to the institution of a close time for the seal fishery, for the purpose of preventing the extirpation of the species in that part of the world. Without in any way admitting that considerations of this order could justify the seizure of vessels which were transgressing no rule of international law, Her Majesty's Government were very ready to agree that the subject was one deserving of the gravest attention on the part of all the Governments interested in those waters.

The Russian Government was disposed to join in the proposed negotiations, but they were suspended for a time in consequence of objections raised by the Dominion of Canada and of doubts thrown on the physical data on which any restrictive legislation must have been based.

Her Majesty's Government are fully sensible of the importance of this question, and of the great value which will attach to an international agreement in respect to it, and Her Majesty's representative will be furnished with the requisite instructions in case the Secretary of State should be willing to enter upon the discussion.

You will read this dispatch and my dispatch No. 205, of this date, to the Secretary of State, and, if he should desire it, you are authorized to give him copies of them.

I am, etc.,

SALISBURY.

No. 7.

The Marquis of Salisbury to Mr. Edwardes.

[Left at the Department of State by Mr. Edwardes.]

FOREIGN OFFICE, October 2, 1889.

SIR: In my dispatch No. 176 of the 17th August last I furnished you with copies of a correspondence which had passed between this department and the colonial office on the subject of the seizure of the Canadian vessels *Black Diamond* and *Triumph* in the Behring's Sea by the United States revenue cutter *Rush*.

I have now received and transmit herewith a copy of a dispatch from the governor-general of Canada to the secretary of state for the colonies, which incloses copies of the instructions given to the special officer placed on board the *Black Diamond* by the officer commanding the *Rush*, and of a letter from the collector of customs at Victoria, together with the sworn affidavits of the masters of the two Canadian vessels.

It is apparent from these affidavits that the vessels were seized at a distance from land far in excess of the limit of maritime jurisdiction which any nation can claim by international law.

The cases are similar in this respect to those of the ships *Caroline*, *Onward*, and *Thornton*, which were seized by a vessel of the United States outside territorial waters in the summer of 1887. In a dispatch to Sir L. West dated September 10, 1887, which was communicated to Mr. Bayard, I drew the attention of the Government of the United States to the illegality of these proceedings, and expressed a hope that due compensation would be awarded to the subjects of Her Majesty who had suffered from them. I have not, since that time, received from the Government of the United States any intimation of their intentions in this respect, or any explanation of the grounds upon which this interference with the British sealers had been authorized. Mr. Bayard did, indeed, communicate to us unofficially an assurance that no further seizures of this character should take place pending the discussion of the questions involved between the two governments. Her Majesty's Government much regret to find that this understanding has not been carried forward into the present year, and that instructions have been issued to cruisers of the United States to seize British vessels fishing for seals in Behring's Sea outside the limit of territorial waters. The grounds upon which these violent measures have been taken have not been communicated to Her Majesty's Government, and remain still unexplained.

But in view of the unexpected renewal of the seizures of which Her Majesty's Government have previously complained, it is my duty to protest against them, and to state that, in the opinion of Her Majesty's Government, they are wholly unjustified by international law.

I am, etc.,

SALISBURY.

[Inclosure 1.]

Mr. Bramston to the Under-Secretary of State for Foreign Affairs.

COLONIAL OFFICE, September 10, 1889.

SIR: With reference to previous correspondence respecting the seizures of Canadian sealers in Behring's Sea, I am directed by Lord Knutsford to transmit to you for communication to the marquis of Salisbury a copy of a dispatch from the governor-general of the Dominion with its inclosures on the subject.

I am, etc.,

JOHN BRAMSTON.

[Inclosure 2.]

Lord Stanley of Preston to Lord Knutsford.

CITADEL, QUEBEC, August 26, 1889.

My LORD: With reference to previous correspondence respecting the seizure of the *Black Diamond* and the detention of the *Triumph* in Behring Sea, I have the honor to forward herewith a copy of an approved minute of the privy council submitting copies of the instructions given to the special officer placed on board the *Black Diamond* by the captain of the United States revenue cutter *Rush*, and of a letter from the collector of customs at Victoria, together with the affidavits of the masters of the two vessels.

I have, etc.,

STANLEY OF PRESTON.

[Inclosure 3.]

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the governor-general in council, on the 22d of August, 1889.

On a report dated the 13th of August, 1889, from the minister of marine and fisheries, submitting, in reference to the seizure in the Behring sea of the schooner *Black Diamond* and the boarding of the schooner *Triumph*, the original instructions given to the special officer placed by the captain of the United States revenue cutter *Rush* on board the *Black Diamond* at the time of the latter's seizure, and also a letter from the honorable Mr. W. Hamley, collector of customs at Victoria, British Columbia, together with the following affidavits:

1. Affidavit of Owen Thomas, of Victoria, British Columbia, master of the British sealing schooner *Black Diamond*.

2. Affidavit of Daniel McLean, of Victoria, British Columbia, master of the British sealing schooner *Triumph*.

The minister recommends that copies of the inclosures herewith be immediately forwarded for the information of Her Majesty's Government.

The committee concurring advise that your excellency be moved to forward this minute, together with copies of the inclosures, to the right honorable the secretary of state for the colonies.

All of which is respectfully submitted.

JOHN J. MCGEE,
Clerk Privy Council.

[Inclosure 4.]

Captain Shepard to Mr. Hankanson.

U. S. REVENUE STEAMER RUSH, BEHRING SEA,
Latitude 56° 22' N., longitude 170° 25' W., July 11, 1889.

SIR: You are hereby appointed a special officer, and directed to proceed on board the schooner *Black Diamond*, of Victoria, British Columbia, this day seized for violation of law (Section 1956, Revised Statutes of the United States), and assume charge of the said vessel, her officers and crew, twenty-five in number, all told, excepting the navigation of the vessel, which is reserved to Capt. Owen Thomas, and which you will not interfere with unless you become convinced that he is proceeding to some other than your port of destination, in which event you are authorized to assume full charge of the vessel. Everything being in readiness, you will direct Capt. Owen Thomas to make the best of his way to Sitka, Alaska, and upon arrival at that port you will report in person to the United States district attorney for the district of Alaska, and deliver to him the letter so addressed, the schooner *Black Diamond*, of Victoria, British Columbia, her outfit, and the persons of Capt. Owen Thomas and Mate Alexander Galt, and set her crew at liberty. After being relieved of the property and persons entrusted to your care, you will await at Sitka the arrival of the *Rush*.

Very respectfully, etc ,

L. G. SHEPARD,
Captain U. S. Revenue Steamer *Rush*.

[Inclosure 5.]

Mr. Hamley to the Minister of Customs.

CUSTOM-HOUSE, Victoria, August 5, 1889.

SIR: I forward herewith, in original, the orders given by Captain Shepard, of the United States revenue cutter *Rush*, to J. Hankanson, special officer, to proceed on board the British schooner *Black Diamond*, seized in Behring Sea, and to take her to Sitka. The master of the schooner reports to me that the Indians employed as hunters in the schooner would, he believes, have murdered Hankanson if an attempt had been made to take her to Sitka. The master got out of the sea and sailed at once for Victoria without any opposition on the part of Hankanson, and I think it is very probable that the orders given him privately by the captain of the *Rush* were not to interfere in any way with the destination of the vessel.

She arrived here on Saturday evening, the 3d of August. The object of the revenue cutter was no doubt attained in taking her skins, rifles, and Indian spears away and sending the vessel out of Behring Sea. Her certificate of registry was also taken away. Shall I give her a fresh certificate?

I have, etc.,

W. HAMLEY.

[Inclosure 6.]

Declaration of Owen Thomas.

In the matter of the seizure of the sealing schooner Black Diamond by the United States revenue cutter Richard Rush on the 11th day of July, 1889.

I, Owen Thomas, of the city of Victoria, British Columbia, master mariner, do solemnly and sincerely declare that:

1. I am a master mariner and was, at the time of the occurrences hereinafter mentioned and still am, the master of the schooner *Black Diamond*, of the port of Victoria, British Columbia.

2. On the 11th day of July, 1889, whilst I was on board and in command of the said schooner, and she being then on a sealing expedition, and being in latitude 56° 22' north, and longitude 170° 25' west, and at a distance of about 35 miles from land, the United States revenue cutter *Richard Rush* overhauled the said schooner, and having hailed her by shouting a command which I could not distinctly hear, steamed across the bows of said schooner, compelling her to come to. A boat was then lowered from the said cutter and Lieutenant Tuttle and five other men from the United States vessel came aboard the said schooner. I asked the lieutenant what he wanted, and on his stating he wished to see the ship's papers, I took him down to my cabin and showed them to him. He then commanded me to hand the papers over to him; this I refused to do and locked them up in my locker.

At this time there were 131 seal-skins aboard the schooner, 76 of which had been salted and 55 of which were unsalted, and Lieutenant Tuttle ordered his men to bring up the skins and to take the salted ones on board the *Richard Rush*. The cutter's men accordingly transferred all of the salted skins from my schooner to the *Richard Rush* and also took aboard the cutter two sacks of salt and a rifle belonging to the schooner. Lieutenant Tuttle then again demanded me to give up the ship's papers and told me that if I would not give them up he would take them by force. As I still declined to part with them he signaled to the cutter and a boat came off with the master-at-arms, who came on board the schooner. Lieutenant Tuttle asked me for the keys of the locker, so that he might get the papers, and upon my refusing to give them to him he ordered the master-at-arms to force open the locker. The master-at-arms then unscrewed the hinges of the locker, took out the ship's papers, and handed them to Lieutenant Tuttle. Lieutenant Tuttle then returned to the *Richard Rush* and came back to the schooner again, bringing on board with him one whose name I have since heard to be John Hawkinson and who I believe to be a quartermaster of the *Richard Rush*. Lieutenant Tuttle then told me to take the schooner to Sitka. I told him that I would not go unless he put a crew on board to take the schooner there. He gave Hawkinson directions to take the ship to Sitka and gave him letters to give to the United States authorities on arrival.

Lieutenant Tuttle before leaving my schooner ordered twenty Indian spears which were aboard for sealing purposes to be taken on to the *Richard Rush*. I asked the lieutenant to give me a receipt for the papers, skins, etc., he had taken; this he refused to do, and he then returned to the *Richard Rush*, taking the said spears with him

and leaving the man Hawkinson in charge of the schooner; shortly afterwards the cutter steamed away without returning the ship's papers, seal skins, and other goods before mentioned.

After the departure of the United States vessel, I directed my course to Ounalaska, hoping to meet with an English man-of-war. We arrived there on the 15th of July. My crew at this time consisted of a mate, Alexander Gault, two white seamen, deck hands, and a white cook and twenty Indians. The Indians, thinking we were going to Sitka, became mutinous, and told me the best thing I could do to avoid trouble was to take the schooner home; they also warned the other white men on board that if they thought I meant to take the schooner to Sitka they would throw us all overboard.

There being no man-of-war at Ounalaska, I left there and directed my course to Victoria, and arrived at that port at about 7 p. m. on Saturday, the 3d of August last, having on board the said John Hawkinson, who during the cruise to Victoria had not tried to give me any directions or made any suggestions as to the course to be taken by the schooner. On arrival at Victoria, Hawkinson was put on shore by one of my boats.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the oaths ordinance 1869.

OWEN THOMAS.

Declared at the city of Victoria, British Columbia, the 7th day of August, 1889, before me,

ERNEST V. BODWELL.

A Notary Public for the Province of British Columbia.

[Inclosure 7.]

Affidavit of Daniel McLean.

I, Daniel McLean, of the city of Victoria, in the province of British Columbia, Dominion of Canada, being duly sworn, depose as follows:

That I am master and part owner of the British schooner *Triumph*, registered at the port of Victoria, British Columbia; that in conformity with the laws of the Dominion of Canada I regularly cleared the said schooner *Triumph* for a voyage to the North Pacific Ocean and Behring Sea, and that in pursuance of my legitimate business did enter the said Behring Sea on 4th day of July, 1889, and did in a peaceful manner proceed on my voyage, and being in latitude 56° 05' north, longitude 171° 23' west, on the 11th day of July, 1889, at the hour of 8.30 a. m., was hailed by commander of the United States revenue cutter *Richard Rush*, the said revenue cutter being a vessel belonging to the Government of the United States and regularly commissioned by the same; a boat having been lowered by officer and crew, I was boarded by the same.

The officer in charge of the boat being one Lieutenant Tuttle, who demanded the official papers of my vessel, and after reading the same proceeded to search my vessel for seals, and finding no evidence of the same, informed me that orders had been issued by the Secretary of the United States under the proclamation of the President, instructing the commanding officer of the said revenue cutter *Rush* to seize all vessels found sealing in Behring Sea; he also told me that should he again board me and find seal skins on board he would seize and confiscate the vessel and catch; he furthermore informed me that he had already seized the British schooner *Black Diamond*, of Victoria, British Columbia, and that she had been sent to Sitka, and that therefore, by reason of his threats and menaces, I was caused to forego my legitimate and peaceful voyage on the high seas and return to the port of my departure, causing serious pecuniary loss to myself, crew, and owners, for which a claim will be formulated and forwarded in due course. And I make this solemn affidavit, conscientiously believing the same to be true, and by virtue of the oaths ordinance 1869.

DANIEL McLEAN.

Master of schooner Triumph.

Sworn before me this 8th August, 1889, at Victoria, British Columbia.

G. MORRISON, J. P.,

A Justice of the Peace for the Province of British Columbia.

No. 8.

*Mr. Edwardes to Mr. Blaine.*BRITISH LEGATION,
Washington, October 14, 1889.

MY DEAR MR. BLAINE: When I had the honor to read to you on Saturday, the 12th instant, two dispatches addressed to me by the Marquis of Salisbury on the subject of the seizures of British sealers in Behring Sea, you inquired of me when I reached the passage which runs as follows, "Mr. Bayard did indeed communicate to us, unofficially, an assurance that no further seizures of this character should take place pending the discussion of the questions involved between the two Governments," if I could tell you in what way this assurance was unofficially communicated to Her Majesty's Government. I replied that I believed it had been so communicated in a letter addressed by Mr. Bayard to Sir Lionel West, and that that letter would be found in the printed correspondence on the subject which was laid before Congress this year.

I have since learnt that the assurance which Lord Salisbury had in mind when writing the dispatch I read was not that to which I referred in my reply to you, but was an assurance communicated unofficially to his lordship by the United States minister in London, and also by Mr. Bayard to Sir Lionel West in the month of April last year.

I have, etc.,

H. G. EDWARDES.

No. 9.

*Mr. Blaine to Sir Julian Pauncefote.*DEPARTMENT OF STATE,
Washington, January 22, 1890.

SIR: Several weeks have elapsed since I had the honor to receive through the hands of Mr. Edwardes copies of two dispatches from Lord Salisbury complaining of the course of the United States revenue cutter *Rush* in intercepting Canadian vessels sailing under the British flag and engaged in taking fur seals in the waters of the Behring Sea.

Subjects which could not be postponed have engaged the attention of this Department and have rendered it impossible to give a formal answer to Lord Salisbury until the present time.

In the opinion of the President, the Canadian vessels arrested and detained in the Behring Sea were engaged in a pursuit that was in itself *contra bonos mores*, a pursuit which of necessity involves a serious and permanent injury to the rights of the Government and people of the United States. To establish this ground it is not necessary to argue the question of the extent and nature of the sovereignty of this Government over the waters of the Behring Sea; it is not necessary to explain, certainly not to define, the powers and privileges ceded by His Imperial Majesty the Emperor of Russia in the treaty by which the Alaskan territory was transferred to the United States. The weighty considerations growing out of the acquisition of that territory, with all the rights on land and sea inseparably connected therewith, may be safely left out of view, while the grounds are set forth upon which this Government

rests its justification for the action complained of by Her Majesty's Government.

It can not be unknown to Her Majesty's Government that one of the most valuable sources of revenue from the Alaskan possessions is the fur-seal fisheries of the Behring Sea. Those fisheries had been exclusively controlled by the Government of Russia, without interference or without question, from their original discovery until the cession of Alaska to the United States in 1867. From 1867 to 1886 the possession in which Russia had been undisturbed was enjoyed by this Government also. There was no interruption and no intrusion from any source. Vessels from other nations passing from time to time through Behring Sea to the Arctic Ocean in pursuit of whales had always abstained from taking part in the capture of seals.

This uniform avoidance of all attempts to take fur seal in those waters had been a constant recognition of the right held and exercised first by Russia and subsequently by this Government. It has also been the recognition of a fact now held beyond denial or doubt that the taking of seals in the open sea rapidly leads to their extinction. This is not only the well known opinion of experts, both British and American, based upon prolonged observation and investigation, but the fact had also been demonstrated in a wide sense by the well-nigh total destruction of all seal fisheries except the one in the Behring Sea, which the Government of the United States is now striving to preserve, not altogether for the use of the American people but for the use of the world at large.

The killing of seals in the open sea involves the destruction of the female in common with the male. The slaughter of the female seal is reckoned as an immediate loss of three seals, besides the future loss of the whole number which the bearing seal may produce in the successive years of life. The destruction which results from killing seals in the open sea proceeds, therefore, by a ratio which constantly and rapidly increases, and insures the total extermination of the species within a very brief period. It has thus become known that the only proper time for the slaughter of seals is at the season when they betake themselves to the land, because the land is the only place where the necessary discrimination can be made as to the age and sex of the seal. It would seem, then, by fair reasoning, that nations not possessing the territory upon which seals can increase their numbers by natural growth, and thus afford an annual supply of skins for the use of mankind, should refrain from the slaughter in open sea where the destruction of the species is sure and swift.

After the acquisition of Alaska the Government of the United States, through competent agents working under the direction of the best experts, gave careful attention to the improvement of the seal fisheries. Proceeding by a close obedience to the laws of nature, and rigidly limiting the number to be annually slaughtered, the Government succeeded in increasing the total number of seals and adding correspondingly and largely to the value of the fisheries. In the course of a few years of intelligent and interesting experiment the number that could be safely slaughtered was fixed at 100,000 annually. The company to which the administration of the fisheries was intrusted by a lease from this Government has paid a rental of \$50,000 per annum, and in addition thereto \$2.62½ per skin for the total number taken. The skins were regularly transported to London to be dressed and prepared for the markets of the world, and the business had grown so large that the earnings of

English laborers, since Alaska was transferred to the United States, amount in the aggregate to more than twelve millions of dollars.

The entire business was then conducted peacefully, lawfully, and profitably—profitably to the United States, for the rental was yielding a moderate interest on the large sum which this Government had paid for Alaska, including the rights now at issue; profitably to the Alaskan Company, which, under governmental direction and restriction, had given unwearied pains to the care and development of the fisheries; profitably to the Aleuts, who were receiving a fair pecuniary reward for their labors, and were elevated from semi-savagery to civilization and to the enjoyment of schools and churches provided for their benefit by the Government of the United States; and, last of all, profitably to a large body of English laborers who had constant employment and received good wages.

This, in brief, was the condition of the Alaska fur-seal fisheries down to the year 1886. The precedents, customs, and rights had been established and enjoyed, either by Russia or the United States, for nearly a century. The two nations were the only powers that owned a foot of land on the continents that bordered, or on the islands included within, the Behring waters where the seals resort to breed. Into this peaceful and secluded field of labor, whose benefits were so equitably shared by the native Aleuts of the Pribylov Islands, by the United States, and by England, certain Canadian vessels in 1886 asserted their right to enter, and by their ruthless course to destroy the fisheries and with them to destroy also the resulting industries which are so valuable. The Government of the United States at once proceeded to check this movement, which, unchecked, was sure to do great and irreparable harm.

It was cause of unfeigned surprise to the United States that Her Majesty's Government should immediately interfere to defend and encourage (surely to encourage by defending) the course of the Canadians in disturbing an industry which had been carefully developed for more than ninety years under the flags of Russia and the United States—developed in such manner as not to interfere with the public rights or the private industries of any other people or any other person.

Whence did the ships of Canada derive the right to do in 1886 that which they had refrained from doing for more than ninety years? Upon what grounds did Her Majesty's Government defend in the year 1886 a course of conduct in the Behring Sea which she had carefully avoided ever since the discovery of that sea? By what reasoning did Her Majesty's Government conclude that an act may be committed with impunity against the rights of the United States which had never been attempted against the same rights when held by the Russian Empire?

So great has been the injury to the fisheries from the irregular and destructive slaughter of seals in the open waters of the Behring Sea by Canadian vessels, that whereas the Government had allowed one hundred thousand to be taken annually for a series of years, it is now compelled to reduce the number to sixty thousand. If four years of this violation of natural law and neighbor's rights has reduced the annual slaughter of seal by 40 per cent., it is easy to see how short a period will be required to work the total destruction of the fisheries.

The ground upon which Her Majesty's Government justifies, or at least defends the course of the Canadian vessels, rests upon the fact that they are committing their acts of destruction on the high seas, viz, more than 3 marine miles from the shore-line. It is doubtful whether

Her Majesty's Government would abide by this rule if the attempt were made to interfere with the pearl fisheries of Ceylon, which extend more than 20 miles from the shore-line and have been enjoyed by England without molestation ever since their acquisition. So well recognized is the British ownership of those fisheries, regardless of the limit of the 3-mile line, that Her Majesty's Government feels authorized to sell the pearl-fishing right from year to year to the highest bidder. Nor is it credible that modes of fishing on the Grand Banks, altogether practicable but highly destructive, would be justified or even permitted by Great Britain on the plea that the vicious acts were committed more than 3 miles from shore.

There are, according to scientific authority, "great colonies of fish" on the "Newfoundland banks." These colonies resemble the seats of great populations on land. They remain stationary, having a limited range of water in which to live and die. In these great "colonies" it is, according to expert judgment, comparatively easy to explode dynamite or giant powder in such manner as to kill vast quantities of fish, and at the same time destroy countless numbers of eggs. Stringent laws have been necessary to prevent the taking of fish by the use of dynamite in many of the rivers and lakes of the United States. The same mode of fishing could readily be adopted with effect on the more shallow parts of the banks, but the destruction of fish in proportion to the catch, says a high authority, might be as great as ten thousand to one. Would Her Majesty's Government think that so wicked an act could not be prevented and its perpetrators punished simply because it had been committed outside of the 3-mile line?

Why are not the two cases parallel? The Canadian vessels are engaged in the taking of fur seal in a manner that destroys the power of reproduction and insures the extermination of the species. In exterminating the species an article useful to mankind is totally destroyed in order that temporary and immoral gain may be acquired by a few persons. By the employment of dynamite on the banks it is not probable that the total destruction of fish could be accomplished, but a serious diminution of a valuable food for man might assuredly result. Does Her Majesty's Government seriously maintain that the law of nations is powerless to prevent such violation of the common rights of man? Are the supporters of justice in all nations to be declared incompetent to prevent wrongs so odious and so destructive?

In the judgment of this Government the law of the sea is not lawlessness. Nor can the law of the sea and the liberty which it confers and which it protects, be perverted to justify acts which are immoral in themselves, which inevitably tend to results against the interests and against the welfare of mankind. One step beyond that which Her Majesty's Government has taken in this contention, and piracy finds its justification. The President does not conceive it possible that Her Majesty's Government could in fact be less indifferent to these evil results than is the Government of the United States. But he hopes that Her Majesty's Government will, after this frank expression of views, more readily comprehend the position of the Government of the United States touching this serious question. This Government has been ready to concede much in order to adjust all differences of view, and has, in the judgment of the President, already proposed a solution not only equitable but generous. Thus far Her Majesty's Government has declined to accept the proposal of the United States. The President now awaits with deep interest, not unmixed with solicitude, any proposition for reasonable adjustment which Her Majesty's Gov-

ernment may submit. The forcible resistance to which this Government is constrained in the Behring Sea is, in the President's judgment, demanded not only by the necessity of defending the traditional and long-established rights of the United States, but also the rights of good government and of good morals the world over.

In this contention the Government of the United States has no occasion and no desire to withdraw or modify the positions which it has at any time maintained against the claims of the Imperial Government of Russia. The United States will not withhold from any nation the privileges which it demanded for itself when Alaska was part of the Russian Empire. Nor is the Government of the United States disposed to exercise in those possessions any less power or authority than it was willing to concede to the Imperial Government of Russia, when its sovereignty extended over them. The President is persuaded that all friendly nations will concede to the United States the same rights and privileges on the lands and in the waters of Alaska which the same friendly nations always conceded to the Empire of Russia.

I have, etc.,

JAMES G. BLAINE.

No. 10.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, *February 10, 1890.*

SIR: Her Majesty's Government have had for some time under their consideration the suggestion made in the course of our interviews on the question of the seal fisheries in Behring's Sea, that it might expedite a settlement of the controversy if the tripartite negotiation respecting the establishment of a close time for those fisheries which was commenced in London in 1888, but was suspended owing to various causes, should be resumed in Washington.

I now have the honor to inform you that Her Majesty's Government are willing to adopt this suggestion, and if agreeable to your Government will take steps concurrently with them to invite the participation of Russia in the renewed negotiations.

I have, etc.

JULIAN PAUNCEFOTE.

No. 11.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, March 1, 1890.

MY DEAR SIR JULIAN: I have extracted from official documents and appended hereto a large mass of evidence, given under oath by professional experts and officers of the United States, touching the subject upon which you desired further proof, namely, that the killing of seals in the open sea tends certainly and rapidly to the extermination of the species. If further evidence is desired, it can be readily furnished.

I have, etc.

JAMES G. BLAINE.

[Inclosure.]

Memorandum.

From the official report made to the House of Representatives in 1889:

In former years fur-seals were found in great numbers on various islands of the South Pacific Ocean, but after a comparatively short period of indiscriminate slaughter the rookeries were deserted, the animals having been killed or driven from their haunts; so that now the only existing rookeries are those in Alaska, another in the Russian part of Behring Sea, and a third on Lobos Island, at the mouth of the river Plate in South America.

All these rookeries are under the protection of their several governments.

The best estimate as to the number of these animals on the Alaska rookeries places it at about 4,000,000; but a marked diminution of the numbers is noticed within the last two or three years, which is attributed by the testimony to the fact that unauthorized persons during the summers of 1886, 1887, and 1888 had fitted out expeditions and cruised in Alaskan waters, and by the use of fire-arms destroyed hundreds of thousands of these animals without regard to age or sex.

The law prohibits the killing of fur seals in the Territory of Alaska or the waters thereof, except by the lessee of the seal islands, and the lessee is permitted to kill during the months of June, July, September, and October only; and is forbidden to kill any seal less than one year old, or any female seal, "or to kill such seals at any time by the use of fire-arms, or by any other means tending to drive the seals away from those islands." (Revised Statutes, section 1960.)

Governor Simpson, of the Hudson Bay Company, in his "Overland Journey Round the World," 1841-'42, p. 130, says:

"Some twenty or thirty years ago there was a most wasteful destruction of the seal, when young and old, male and female, were indiscriminately knocked in the head. This imprudence, as any one might have expected, proved detrimental in two ways. The race was almost extirpated, and the market was glutted to such a degree, at the rate for some time of 200,000 skins a year, that the prices did not even pay the expenses of carriage. The Russians, however, have now adopted nearly the same plan which the Hudson Bay Company pursues in recruiting any of its exhausted districts, killing only a limited number of such males as have attained their full growth, a plan peculiarly applicable to the fur-seal, inasmuch as its habits render a system of husbanding the stock as easy and certain as that of destroying it."

In the year 1800 the rookeries of the Georgian Islands produced 112,000 fur-seals. From 1806 to 1823, says the *Encyclopædia Britannica*, "The Georgian Islands produced 1,200,000 seals, and the island of Desolation has been equally productive." Over 1,000,000 were taken from the island of Mas-a-Fuera and shipped to China in 1798-'99. (Fanning's "Voyages to the South Sea," p. 299.)

In 1820 and 1821 over 300,000 fur-seals were taken at the South Shetland Islands, and Captain Weddell states that at the end of the second year the species had there become almost exterminated. In addition to the number killed for their furs, he estimates that "not less than 100,000 newly born young died in consequence of the destruction of their mothers." (See Elliott's Rep., 1884, p. 118.)

In 1830 the supply of fur-seals in the South Seas had so greatly decreased that the vessels engaged in this enterprise "generally made losing voyages, from the fact that those places which were the resort of seals had been abandoned by them." (Fanning's *Voyages*, p. 487.)

At Antipodes Island, off the coast of New South Wales, 400,000 skins were obtained in the years 1814 and 1815.

Referring to these facts, Professor Elliott, of the Smithsonian Institution, in his able report on the Sea Islands, published by the Interior Department in 1884, says:

"This gives a very fair idea of the manner in which the business was conducted in the South Pacific. How long would our sealing interests in Behring Sea withstand the attacks of sixty vessels carrying from twenty to thirty men each? Not over two seasons. The fact that these great southern rookeries withstood and paid for attacks of this extensive character during a period of more than twenty years speaks eloquently of the millions upon millions that must have existed in the waters now almost deserted by them."

Mr. R. H. Chapel, of New London, Conn., whose vessels had visited all the rookeries of the South Pacific, in his written statement before the Committee on Commerce of the House of Representatives, said:

"As showing the progress of this trade in fur-seal skins, and the abuses of its prosecution, resulting in almost total annihilation of the animals in some localities, it is stated on good authority that, from about 1770 to 1800, Kerguelen Land, in the Indian Ocean, yielded to the English traders over 1,000,000 skins; but open competition swept off the herds that resorted there, and since the latter year hardly 100 per annum

could be obtained on all its long coast. Afterwards, Mas-a-Fuera Island, near Juan Fernandez, was visited, and 50,000 a year were obtained; but as every one that desired was free to go and kill, the usual result followed—the seals were exterminated at that island, and also at the Galapagos group, near by.

"Falkland and Shetland Islands, and South American coasts, near Cape Horn, came next in order: here the seal were very abundant. It is stated that at the Shetlands alone 100,000 per annum might have been obtained and the rookeries preserved, if taken under proper restrictions; but in the eagerness of men they killed old and young, male and female; little pups a few days old, deprived of their mothers, died by thousands on the beaches, carcasses and bones strewed the shores, and this productive fishery was wholly destroyed. It is estimated that in the years 1821 and 1822 no less than 320,000 of these animals were killed at the Shetlands alone. An American captain, describing in after years his success there, says: 'We went the first year with one vessel and got 1,200; the second year with two vessels, and obtained 30,000; the third year with six vessels, getting only 1,700—all there was left.'

"A small rookery is still preserved at the Lobos Islands, off the river La Plata; this, being carefully guarded under strict regulations by the Government of Buenos Ayres, and rented to proper parties, yields about 5,000 skins per annum. As late as the year 1854, a small island, hardly a mile across, was discovered by Americans in the Japan Sea, where about 50,000 seals resorted annually. Traders visited it, and in three years the club and knife had cleaned them all off. Not 100 a season can now be found there."

Hon. C. A. Williams of Connecticut, who inherited the whaling and sealing business from his father and grandfather, speaking of the seal in the South Pacific, gave the following testimony before the Congressional committee:

The history of sealing goes back to about 1790, and from that to the early part of this century.

In the earlier period of which I speak there were no seals known in the North Pacific Ocean. Their peculiar haunt was the South Atlantic. They were discovered by Cook, in his voyages, on the island of Desolation; by Widdall, in his voyages to the south pole, on the island of South Georgia and Sandwichland; and by later voyagers, whose names escape me, in the islands of the South Pacific Ocean. When the number of seals on those islands were first brought to the notice of British merchants, they pursued the hunting of these animals on the island of Desolation.

The most authentic authority we have about the matter is derived from reports made by these voyagers as to the number of seals taken from those places, and, although they are not entirely accurate, I think they are fully as accurate as could be expected, considering the lapse of time. On the island of Desolation it is estimated that 1,200,000 fur-seals were taken; from the island of South Georgia a like number were taken, and from the island of Mas-a-Fuera probably a greater number were taken. As to the Sandwichland the statistics are not clear, but there can be no doubt that over 500,000 seals were taken from that locality, and in 1820 the islands of South Shetland, south of Cape Horn, were discovered, and from these islands 320,000 fur-seals were taken in two years. There were other localities from which seals were taken, but no others where they were found in such large numbers.

The cause of the extermination of seals in those localities was the indiscriminate character of the slaughter. Sometimes as many as fifteen vessels would be hanging around these islands awaiting opportunity to get their catch, and every vessel would be governed by individual interests. They would kill every thing that came in their way that furnished a skin, whether a cow, a bull, or a middle-grown seal, leaving the young pups just born to die from neglect and starvation. It was like taking a herd of cattle and killing all the bulls and cows and leaving the calves. The extermination was so complete in these localities that the trade was exhausted, and voyages to those places were abandoned. About 1870, nearly fifty years after the discovery of the South Shetland Islands, when the occupation of Alaska by the cession of Russia to the United States of the Behring Sea was brought about—

The CHAIRMAN. I want to interrupt you to ask a question on that point. Were those rookeries in the South Seas never under the protectorate of any government at all?

The WITNESS. Never. I was going to say that when the cession was made by Russia to the United States of this territory, and the subject of the value of fur-seals, or the possible value, was brought to mind, people who had been previously engaged in that business revisited these southern localities after a lapse of nearly fifty years, and no seals were found on the island of Desolation. These islands have been used as the breeding place for sea elephants, and that creature can not be exterminated on that island, for the reason that certain beaches known as "weather beaches"

are there. The sea breaks rudely upon these beaches, and it is impossible to land upon them. There are cliffs, something like 300 to 500 feet, of shore ice, and the seal-elephant finds a safe resort on these beaches, and still preserves enough life to make the pursuit of that animal worth following in a small way.

I have vessels there, and have had, myself and father, for fifty or sixty years. But this is incidental. The island of South Shetland, and the island of South Georgia, and the island of Sandwichland, and the Diegos, off Cape Horn, and one or two other minor points were found to yield more or less seal. In this period of fifty years in these localities seal life had recuperated to such an extent that there was taken from them in the six years from 1870 to 1876 or 1877 perhaps 40,000 skins.

Q. After they had been abandoned for fifty years?—A. Yes; to-day they are again exhausted. The last year's search of vessels in that region—I have the statistics here of a vessel from Stonington from the South Shetland Islands, reported in 1888, and she procured 39 skins as the total result of search on those islands and South Georgia.

One of my own vessels procured 61 skins, including 11 pups, as the total result of her voyage; and, except about Cape Horn, there are, in my opinion, no seals remaining. I do not think that 100 seals could be procured from all the localities mentioned by a close search. Any one of those localities I have named, under proper protection and restrictions, might have been perpetuated as a breeding place for seals, yielding as great a number per annum as do the islands belonging to the United States.

Now, the trade in those localities is entirely exhausted, and it would be impossible in a century to restock those islands, or bring them back to a point where they would yield a reasonable return for the investment of capital in hunting skins. That, in brief, completes the history of the fur-seal in the South Atlantic Ocean.

DANGER OF THE EXTERMINATION OF THE ALASKA ROOKERIES.

We have already mentioned that the present number of seals on St. Paul and St. George islands has materially diminished during the last two or three years. The testimony discloses the fact that a large number of British and American vessels, manned by expert Indian seal hunters, have frequented Behring Sea and destroyed hundreds of thousands of fur-seals by shooting them in the water, and securing as many of the carcasses for their skins as they were able to take on board. The testimony of the Government agents shows that of the number of seals killed in the water not more than one in seven, on an average, is secured, for the reason that a wounded seal will sink in the sea; so that for every thousand seal-skins secured in this manner there is a diminution of seal life at these rookeries of at least 7,000. Added to this is the fact that the shooting of a female seal with young causes the death of both. If the shooting is before delivery, that, of course, is the end of both; if after, the young seal dies for want of sustenance.

During the season of 1885 the number of contraband seal-skins placed on the market was over 13,000; and in 1886, 25,000; in 1887, 34,000; and in 1888 the number of illicit skins secured by British cruisers was less than 25,000, which number would have been largely increased had not the season been very stormy and boisterous. American citizens respected the law and the published notice of the Secretary of the Treasury, and made no attempt to take seals.

From this it appears that, during the last three years, the number of contraband seal-skins placed on the market amounted to over 97,000, and which, according to the testimony, destroyed nearly three-quarters of a million of fur-seals, causing a loss of revenue amounting to over \$2,000,000, at the rate of tax and rental paid by the lessee of the seal islands.

LIMITATION: THE LESSEE FORBIDDEN TO KILL ANY FEMALE SEAL.

The following is an extract from the official report to Congress:

The lessee is permitted to kill 100,000 fur-seals on St. Paul and St. George Islands, and no more, and is prohibited from killing any female seal or any seal less than one year old, and from killing any fur-seal at any time except during the months of June, July, September, and October, and from killing such seals by the use of fire-arms or other means tending to drive the seals from said islands, and from killing any seal in the water adjacent to said islands, or on the beaches, cliffs, or rocks where they haul up from the sea to remain.

Further extract from report:

It is clear to your committee from the proof submitted that to prohibit seal killing on the seal islands and permit the killing in Behring Sea would be no protection; for it is not on the islands where the destruction of seal life is threatened or seals are unlawfully killed, but it is in that part of Behring Sea lying between the eastern and

western limits of Alaska, as described in the treaty of cession, through which the seals pass and repass in going to and from their feeding grounds, some 50 miles southeast of the rookeries, and in their annual migrations to and from the islands.

Extract from report of L. N. Buynitsky, agent of the Treasury in 1870, to Hon. George L. Bontwell, Secretary of the Treasury. It will be observed that this report was made in 1870, before any dispute had arisen with the Canadian sealers.

When the herd has been driven a certain distance from the shore a halt is made, and a sorting of the game as to age, sex, and condition of the fur is effected. This operation requires the exercise of a life-long experience, and is of the utmost importance, as the killing of females, which are easily mistaken for young males, even by the natives, would endanger the propagation of the species.

The same witness, when not an employé of the Treasury, gave testimony on another point in 1889:

Q. Where are those seals born? Where do the female seals give birth to their young?—A. They are born on the rookeries.

Q. Are they an animal or a fish, or what are they; how do you classify them?—A. They are hot-blooded animals born on the land; they are not a fish.

Q. And born on the United States territory, are they?—A. Yes; all those born on the islands of St. Paul and St. George.

Q. That is in United States territory?—A. Yes, sir. "Fisheries" is a misnomer all the way through, and always was.

H. A. Glidden, an agent of the Treasury Department, was on the Pribylov Islands from May, 1882, to June, 1885. In describing before the Congressional committee the mode of killing seals by the lessee of the islands the following occurred:

Q. Do they kill any females?—A. They never kill females. I do not know of but one or two instances in my experience where a female seal was ever driven out with the crowd.

Q. Do you believe seal life can be preserved without Government protection over them?—A. I do not.

W. B. Taylor, a Treasury agent, was asked the same question as to the killing of female seals, and he said that "he had never known but one or two killed by the lessee on the islands, and they by accident." He was further asked as follows:

Q. When they kill the seals in the waters, about what proportion of them do they recover?—A. I do not believe more than one-fourth of them.

Q. The others sink?—A. They shoot them and they sink.

Q. Have you ever noticed any wounded ones that came ashore that have been shot?—A. No, sir; I do not think I did.

The same witness testified as follows:

Q. You do not think, then, that the value of the seal fisheries and the seal rookeries could be preserved under an open policy?—A. No, sir; I do not. I think if you open it they will be destroyed without question.

Q. Do you think it necessary to protect the seals in the sea and down in their feeding grounds in the Pacific, if possible, in order to preserve their full value and the perpetuity of seal life? Do you think they ought to be protected everywhere as well as on the rookeries?—A. Yes, sir; I think they ought to be protected not alone on the rookeries but on the waters of the Behring Sea. I do not think it is necessary to go outside of the Behring Sea, because there is no considerable number of them.

Q. Are they so dispersed in the Pacific that they would not be liable to destruction?—A. Yes, sir; they are scattered very much, and no hunters do much hunting in the Pacific, as I understand. Another reason why they should be protected in all the waters of the Behring Sea is this: A large number of seals that are on the islands of course eat a great many fish every twenty-four hours, and the fish have become well aware of the fact that there are a good many seal on the seal islands, and they stay out a longer distance from the islands, and they do not come near the shore. It becomes necessary for the seal themselves, the cows, to go a good distance into the sea in order to obtain food, and it is there where most of the damage is done by these vessels. They catch them while they are out.

Q. So on the rookeries they go out daily for food?—A. The cows go out every day for food. The bulls do not go; they stay on the island all summer. The cows go 10 and 15 miles and even farther—I do not know the average of it—and they are going and coming all the morning and evening. The sea is black with them around about the islands. If there is a little fog and they get out half a mile from shore, we can not see a vessel—100 yards even. The vessels themselves lay around the islands there where they pick up a good many seal, and there is where the killing of cows occurs when they go ashore. I think this is worse than it would be to take 25,000 more seal on the islands than are now taken. I think there is some damage done in the killing and shooting of the cows, and leaving so many young without their mothers.

Q. Is it your opinion that a larger number of seals may be taken annually without detriment to the rookeries?—A. No, sir; I would not recommend that. The time may come, but I think that one year with another they are taking all they ought to take, for this reason:

I believe that the capacity of the bull seal is limited, the same as any other animal, and I have very frequently counted from thirty to thirty-five and even, at one time, forty-two cows with one bull. I think if there were more bulls there would be less cows to one bull, and in that way the increase would be greater than now. While the number of seal in the aggregate is not apparently diminished, and in fact there is undoubtedly an increase, yet if you take any greater number of seal than is taken now, this ratio of cows to one bull would be greater, and for that reason there would be a less number of young seals, undoubtedly. I look upon the breeding of the seal as something like the breeding of any other animal, and that the same care and restriction and judgment should be exercised in this breeding.

The same witness testified as follows:

Q. What will be the effect upon the seal rookeries if this surreptitious and unlawful killing in the Behring Sea is to be permitted?—A. In my judgment it would eventually exterminate the seal.

Mr. C. A. Williams, of Connecticut, before referred to, testified as follows:

Q. I would like to know—I do not know that it is just the proper time—but I would like to get the idea of those conversant with the habits and nature of the seal as to what their opinion is upon the effect of the indiscriminate killing of them while they are coming to and going from the islands.—A. That is a question which I think most any of us here can answer. If you note the conformation of the Aleutian Islands, which form a wall, and note the gaps through which the seals come from the Pacific Ocean seeking the haunt on these islands, that is the whole point. When they come through these various passes, generally through the Oomnak Pass, the sea is reasonably shallow, and the cows come laden with pups, waiting until the last moment in the water to go ashore to deliver, because they can roll and scratch and help themselves better than if they haul out when heavy with pup, so they stay in the water playing about until their instinct warns them it is time to go ashore, and during that time they are massed in great quantities in the sea.

Q. Now, in that view of it, the destruction of them there is almost practically the same as the destruction of them on the islands?—A. Yes, sir.

Q. And the conditions are as bad?—A. Yes, sir; and often worse, for this reason: If you kill a pup you destroy a single life, but in killing a cow you not only destroy the life that may be, but the source from which life comes hereafter, and when they are killed there in the water by a shot-gun or a spear the proportion saved by the hunters is probably not one in seven. That was their own estimate: that out of eight shots they would save one seal and seven were lost. If they were killed on the land, those seven would go towards filling out their score.

The same witness also testified as follows:

Q. Have you instructed your agents to comply strictly with the laws and regulations of the Treasury Department?—A. In every case; yes.

Q. Do you kill seals with fire-arms at the islands, or do you prohibit that?—A. No, sir; never; it is not allowed by the act.

Q. Do you kill the female seals or allow them to be killed?—A. Never with our knowledge.

Q. Do you kill any during the month of August for their skins?—A. Not a seal; no.

Q. Do you kill any seals under two years old?—A. Not that we are aware of.

The same witness further testified:

Q. Now, I would like to have your opinion as to the insufficiency of the present measures taken by the Government for the protection of the rookeries, and your opinion as to whether any additional safeguards are necessary for their protection.—

A. That the present measures are somewhat insufficient is shown by the fact that for the last three or four years there have been increased depredations annually upon the rookeries. More seals are taken within the limits of the Behring Sea. Formerly seals were only taken outside of Behring Sea, as they passed up to British Columbia, and off the mouth of Puget Sound, in the waters of the Pacific Ocean. That was a legitimate place to take them, and one against which no objection could be raised. Seals which come up that way enter through the passages of the Aleutian Islands nearest to the mainland, and it has always been the custom in British Columbia and our Sound to intercept the seal and get what they could. Within the last two or three years marauders have followed them through the passages into Behring Sea, and have with guns and spears taken the seals as they lay upon the water, as I stated before, waiting to haul ashore and have their pups. The cows are heavy with pup, and they do not like to go ashore until the last moment, and so they lie there in the water, and this affords an opportunity for these marauders to shoot and spear them. This is done by gangs of Indians which they have. They hire gangs of Indians and take them with them. The effects of this shooting is not alone upon the seals which are at that point, but also upon those all around, and it startles them and raises a suspicion in their minds and there is a general feeling of disturbance, such as you notice among cattle when bears are about or something of that kind.

And again:

Q. Now, Mr. Williams, should it be finally ascertained and considered by our Government that under the treaty of cession by which we acquired Alaska from Russia, and under the laws of nations, the United States does possess and has absolute dominion and jurisdiction over Behring Sea and the waters of Alaska, would you think it would be a wise policy to adhere to and maintain that jurisdiction and dominion complete, or would it be wiser to declare it the high sea in the legal sense?—A. In the light of to-day I should say, keep what you have got.

Q. Hold it as a closed sea?—A. Fisheries within those limits are yet to be developed, and it would seem to be very unwise to open up possible fishery contentions which are very likely to arise by such a course.

Q. You think that it would be, then, the wiser policy, to maintain such jurisdiction and dominion as we have, and to concede to the vessels of other nations such rights as are not inconsistent with the interests which our nation has there and which need protection?—A. Exactly that; the right of transit through the sea wherever they please, but positive protection to seal life.

Q. You do not think it would be wise to grant anything else?—A. No, sir; not at all.

Q. And in no case to surrender the power of policing the sea?—A. No, sir; under no circumstances.

Q. Could that power and jurisdiction be surrendered and yet preserve this seal life on these rookeries and the value of our fisheries that may be developed there?—A. Only with very great risk; because, if that right is surrendered, and thereby the right to police the sea, the depredations that are made upon the seal wherever they may be found, wherever men thought they could carry them out without being taken in the act would be carried out. So it would be difficult in regard to the fisheries. Wherever they could kill these seals they certainly would be there, and it would be impossible to prevent them.

In the statements and statistics relative to the fur-seal fisheries, submitted by C. A. Williams, in 1888, to the Committee of Congress on Merchant Marine and Fisheries, appears the following:

Examination of the earliest records of the fur-seal fishery shows that from the date of man's recognition of the value of the fur the pursuit of the animal bearing it has been unceasing and relentless. Save in the few instances to be noted hereafter, where governments have interposed for the purpose of protecting seal life, having in view benefits to accrue in the future, the animal has been wantonly slaughtered, with no regard for age, sex, or condition. The mature male, the female heavy with young, the pup, dependent for life on the mother, each and all have been indiscriminately killed or left to die of want. This cruel and useless butchery has resulted in complete extermination of the fur-seal from localities which were once frequented by millions of the species; and, so far as these localities are concerned, has obliterated an industry which a little more enlightened selfishness might have preserved in perpetuity to the great benefit of all ranks of civilized society. Nothing less than stringent laws, with will power to enforce them against all violators, can preserve for man's benefit the remnant of a race of animals so interesting and so useful.

The most valuable "rookery," or breeding place, of these animals ever known to man is now in the possession of the United States. How it has been cared for in former years and brought to its present state of value and usefulness will be shown later on.

But the matter of its preservation and perpetuation intact is the important question of the moment, and that this question may be considered intelligently the evidence is here presented of the wanton destruction that has befallen these animals when left unprotected by the law to man's greed and selfishness, which, it is fair to say, is all that could be expected from the unlicensed hunter, whose nature seeks individual and immediate gain, with no regard for a future in which he has no assurance of personal advantage.

The following statistics are gathered from the journals of early navigators, and such commercial records as are now available are submitted:

Kerguelen Land.—An island in southern Indian Ocean, discovered about 1772. The shores of this island were teeming with fur-seal when it first became known. Between the date of its discovery and the year 1800 over 1,200,000 seal skins were taken by the British vessels from the island, and seal life thereon was exterminated.

Crozetts.—The Crozett Islands, in same ocean and not far distant, were also visited and hunted over and the seal life there totally exhausted.

Mas-a-Fuera.—An island in southern Pacific Ocean, latitude $35^{\circ} 48'$ south, longitude $80^{\circ} 34'$ west, came next in order of discovery, and from its shores in a few years were gathered and shipped 1,200,000 fur-seal skins.

Delano, chapter 17, page 306, says of Mas-a-Fuera:

"When the Americans came to this place in 1797 and began to make a business of killing seals, there is no doubt but there were 2,000,000 or 3,000,000 of them on the island. I have made an estimate of more than 3,000,000 that have been carried to Canton from thence in the space of seven years. I have carried more than 100,000 myself and have been at the place when there were the people of fourteen ships or vessels on the island at one time killing seals."

South Shetlands.—In 1821-23 the South Shetland Islands, a group nearly south from Cape Horn, became known to the seal hunters, and in two years over 320,000 seals were killed and their skins shipped from these islands.

South Georgia.—Later still, seal were found on the island of South Georgia, South Atlantic Ocean, and from this locality were obtained over 1,000,000 of fur-seal, leaving the beaches bare of seal life.

Cape Horn.—From the coasts of South America and about Cape Horn many thousands of fur-seal have been taken, and of the life once so prolific there nothing is now left save such remnants of former herds as shelter on rocks and islets almost inaccessible to the most daring hunter.

This record shows the nearly complete destruction of these valuable animals in southern seas. Properly protected, Kerguelen Land, Mas-a-Fuera, the Shetlands, and South Georgia might have been hives of industry, producing vast wealth, training-schools for hardy seamen, and furnishing employment for tens of thousands in the world's markets where skins are dressed, prepared, and distributed. But the localities were no man's land, and no man cared for them or their products save as through destruction they could be transmitted into a passing profit.

The seal life of to-day available for commercial purposes is centered in three localities:

(1) The Lobos Islands, situated in the mouth of the river La Plata, owned and controlled by the Uruguay Republic, and by that Government leased to private parties for the sum of \$6,000 per annum and some stipulated charges. The annual product in skins is about 12,000. The skins are of rather inferior quality. Insufficient restrictions are placed upon the lessees in regard to the number of skins permitted to be taken annually, consequently there is some waste of life; nevertheless the measure of protection allowed has insured the preservation of the rookery, and will continue so to do.

(2) Komandorski Couplet, which consists of the islands of Copper and Behring, near the coast of Kamchatka, in that portion of Behring Sea pertaining to Russia. These islands yield about 40,000 skins per annum, of good quality, and are guarded by carefully restrictive rules as to the killing of seal, analogous to the statutes of the United States relative to the same subject. The right to take seals upon them is leased by the Russian Government to an association of American citizens, who also hold the lease of the islands belonging to the United States, and are thus enabled to control and direct the business in fur-seal skins for the common advantage and benefit of all parties in interest. These islands can hardly be said to have been "worked" at all for salted seal-skins prior to the cession of Alaska by Russia to the United States, and the United States Government now profits by the industry to the extent of the duty of 20 per cent. collected on the "dressed skins" returned to this country from the London market. From 1873 to 1887, inclusive, this return has been 121,275 skins.

(3) The Pribylov group consists of the islands of St. Paul and St. George, and is a Government reservation in that part of Behring Sea ceded to the United States by Russia, together with a part of Alaska. So exhaustive an account of these islands and their seal life has been given by Mr. H. W. Elliott, special agent of

Treasury Department in 1874, and since intimately connected with the Smithsonian Institution, which account has been made a part of Tenth Census report, that it would be intrusive here to attempt to supplement aught, and therefore only generalizations based on said report and such statements of life and procedure on the islands to-day are presented as may be pertinent in this connection.

In an article on fur-seals, which appeared in *Land and Water*, July 14, 1877, Mr. Henry Lee (Englishman), F. L. S., says:

It has been stated that during a period of fifty years not less than 20,000 tons of sea-elephant's oil, worth more than £1,000,000, was annually obtained from New Georgia, besides an incalculable number of fur-seal skins, of which we have no statistics. Some idea may be had of their numbers in former years when we learn that on the island of Mas-a-Fuera, on the coast of Chili (an island not 25 miles in circumference), Captain Fanning, of the American ship *Betsy*, obtained in 1798 a full crop of choice skins and estimated that there were left on the island at least 500,000 seals. Subsequently there were taken from this island little short of a million skins. The seal catching was extensively prosecuted there for many years, the sealing fleet on the coast of Chili alone then numbering thirty vessels. From Desolation Island, also discovered by Cook, and the South Shetlands, discovered by Weddell, the number of skins taken was at least as great; from the latter alone 320,000 were shipped during the two years 1821 and 1822. China was the great market to which they were sent, and there the price for each skin was from \$4 to \$6. As several thousand tons of shipping, chiefly English and American, were at that time employed in fur-seal catching, the profits of the early traders were enormous.

Does the reader ask what has become of this extensive and highly remunerative southern fur trade? It has been all but annihilated by man's grasping greed, reckless improvidence, and wanton cruelty. The "woeful want" has come that "woeful waste" has made. Without thought of the future the misguided hunters persistently killed every seal that came within their reach. Old and young, male and female, were indiscriminately slaughtered, in season and out of season, and thousands of little pups not thought worth the trouble of knocking them on the head were left to die of hunger alongside the flayed and gory carcasses of their mothers. Every coast and island known to be the haunt of the seals was visited by ship after ship, and the massacre left unfinished by one gang was continued by the next comers and completed by others until, in consequence of none of the animals being left to breed, their number gradually diminished, so that they were almost exterminated, only a few stragglers remaining where millions were once found. In some places where formerly they gathered together in such densely packed crowds upon the shore that a boat's crew could not find room to land till they had dispersed them for a space with oars and boat-hooks, not one fur-seal was to be found even so long ago as 1835.

Dr. H. H. McIntyre, superintendent of the seal fisheries of Alaska for the lessees, testified before the Congressional committee as follows:

Q. What proportion of the seals shot in the water are recovered and the skins taken to market?—A. I think not more than one-fifth of those shot are recovered. Many are badly wounded and escape. We find every year embedded in blubber of animals killed upon the islands large quantities of bullets, shot, and buckshot. Last year my men brought to me as much as a double handful of lead found by them embedded in this way.

Q. I want to ask you whether or not the three-year-old seals, or many of them, which should have returned this year did not return because they had been killed?—A. That seems to be the case. The mauling was extensively carried on in 1885 and 1886, and in previous years, and of course the pups that would have been born from cows that were killed in 1885, or that perished through the loss of their mothers during that year, would have come upon the islands in 1888 and we should have had that additional number from which to make our selection this year. The deficiency this year is attributed to that cause—to the fact that the cows were killed. And I would say further that if cows are killed late in the season, say in August, after the pups are born, the latter are left upon the island deprived of the mother's care, and of course perish. The effect is the same whether the cows are killed before or after the pups are dropped. The young perish in either case.

Q. It being conceded that the islands are their home, and no one being interested other than the American and Russian Governments, there would be no special reason why other nations would object?—A. Only the Governments of the United States and England are interested in the Alaskan seal fisheries to any great extent. The United States is interested in it as a producer of raw material, and England as a manufact-

urer of furs. If these two nations were agreed that seal life should be protected, I think there would be no trouble in fully protecting it. It is a question of quite as much interest to England as to the United States, for she has a large number of skilled workmen and a large amount of capital engaged in this industry.

Professor Elliott, of the Smithsonian Institution, who has spent some time in scientifically examining the seal islands and the habits of the seal, thus describes the killing power of the seal hunter at sea:

His power to destroy them is also augmented by the fact that those seals which are most liable to meet his eye and aim are the female fur-seals, which, heavy with young, are here slowly nearing the land, soundly sleeping at sea by intervals, and reluctant to haul out from the cool embrace of the water upon their breeding grounds until that day, and hour even, arrives which limits the period of their gestation.

The pelagic sealer employs three agencies with which to secure his quarry, viz: He sends out Indians with canoes from his vessel, armed with spears; he uses shot-guns and buckshot, rifles and balls, and last, but most deadly and destructive of all, he can spread the "gill-net" in favorable weather.

With gill-nets "underrun" by a fleet of sealers in Behring Sea, across these converging paths of the fur-seal, anywhere from 10 to 100 miles southerly from the Pribylov group, I am moderate in saying that such a fleet could utterly ruin and destroy those fur-seal rookeries now present upon the seal islands in less time than three or four short years. Every foot of that watery roadway of fur-seal travel above indicated, if these men were not checked, could and would be traversed by those deadly nets; and a seal coming from or going to the islands would have, under the water and above it, scarcely one chance in ten of safely passing such a cordon.

Open those waters of Behring Sea to unchecked pelagic sealing, then a fleet of hundreds of vessels, steamers, ships, schooners, and what not, would immediately venture into them, bent upon the most vigorous and indiscriminate slaughter of these fur-seals; a few seasons of greediest rapine, then nothing would be left of those wonderful and valuable interests of our Government which are now so handsomely embodied on the seal islands; but which, if guarded and conserved as they are to-day, will last for an indefinite time to come as objects of the highest commercial good and value to the world, and as subjects for the most fascinating biological study.

Shooting fur-seals in the open waters of the sea or ocean with the peculiar shot and bullet cartridges used involves an immense waste of seal life. Every seal that is merely wounded, and even if mortally wounded at the moment of shooting, dives and swims away instantly, to perish at some point far distant and to be never again seen by its human enemies; it is ultimately destroyed, but it is lost, in so far as the hunters are concerned. If the seal is shot dead instantly, killed instantly, then it can be picked up in most every case; but not one seal in ten fired at by the most skillful marine hunters is so shot, and nearly every seal in this ten will have been wounded, many of them fatally. The irregular tumbling of the water around the seal and the irregular heaving of the hunter's boat, both acting at the same moment entirely independent of each other, making the difficulty of taking accurate aim exceedingly great and the result of clean killing very slender.

Mr. George R. Tingle, United States Treasury agent in charge of the fur-seal islands from April, 1885, until August, 1886, testified as follows:

Q. It is Mr. McIntyre's opinion that they have not only not increased, but have decreased?—A. There has been a slight diminution of seals, probably.

Q. To what do you attribute that?—A. I think there have been more seals killed in the sea than ever before by marauders. I estimated that they secured 30,000 skins in 1887, and in order to secure that number of skins they would have had to kill half a million seals, while this company in taking 100,000 on shore destroyed only 31 seals. Those were killed by accident. Some times a young seal, or one not intended to be killed, pops up his head and gets a blow unintentionally.

Q. The waste of seal life was only 53 in 1887?—A. Yes, sir; in securing 100,000 skins, while these marauders did not kill last year less than 500,000. The logs of marauding schooners have fallen into my hands, and they have convinced me that they do not secure more than one seal out of every ten that they mortally wound and kill, for the reason that the seals sink very quickly in the water. Allowing one out of ten, there would be 300,000 that they would kill in getting 30,000 skins. Two hundred thousand of those killed would be females having 200,000 pups on shore. Those pups would die by reason of the death of their mothers, which added to the 300,000, makes half a million destroyed. I am inclined to think, because the seals show they are not increasing, or rather that they are at a stand-still, that more than 300,000 are killed by marauders.

Q. You are of the opinion, then, that the marauders are killing more seals than the

Alaska Commercial Company?—A. At least five or six times as many as the Alaska Commercial Company are killing.

Q. What will be the effect if more stringent measures are not taken to protect the seals by the Government?—A. If more stringent measures are not taken, it is only a question of time when these seals will be driven ultimately to seek some other home where they will not be molested. They will not continue to be harassed; and, if this marauding is continued, they will, in my opinion, either be gradually exterminated or will leave the islands permanently and land at some other place. They may go on the Russian side.

Q. Will marauding increase if the Government does not take steps to prevent it?—A. I think so.

Q. Is it practicable to prevent it?—A. Yes, sir. If we did not allow these cheeky, persistent, insolent, British Columbia seamen to go there and defy the United States and its authorities, it would very soon be stopped. When our revenue cutters seize the British schooners, the captains are very insolent and defiant, and claim that they have a strong government at their backs. I am now referring particularly to Captain Warner, of the *Dolphin*. He said in 1887, when captured, "We have got a strong government at our backs, and we will fight you on this question." "Very well," says Captain Shepherd, "I have got a strong government at my back, and I am going to do my duty. My government sends me to protect these seal rookeries. I am charged by this administration to enforce the law, and I will seize all marauders."

* * * * *

Q. You were speaking a while ago in regard to the amount of seal life destroyed by marauders, and that a captain had given the number of seals destroyed. Have you seen any of the log books of those vessels?—A. Yes, sir.

Q. Will you state what you remember with regard to the number of seals lost or captured by those vessels?—A. I remember reading the log-book of the *Angel Dolly*, which I captured. There was an entry in that log-book that read as follows: "Issued to-day to my boats, three hundred rounds of ammunition. At night they came in with the ammunition all expended, and one seal-skin."

Q. They had shot three hundred rounds of ammunition?—A. Yes, sir. Another entry I saw was: "Seven seals shot from the deck, but only secured one." All lost but one. Another entry: "It is very discouraging to issue a large quantity of ammunition to your boats, and have so few seals returned." An entry was made in another place, where he gave it as his opinion that he did not secure one seal-skin out of every fifty seals wounded and killed.

Q. Have you seen seal-skins upon the island that had been shot?—A. Very often. We gather handfuls of shot every season.

Q. Does that injure the market value of the skins?—A. Undoubtedly. Any hole is an injury to the skin.

Extract from Mr. Tingle's report to the Treasury Department.

I am now convinced from what I gather, in questioning the men belonging to captured schooners and from reading the logs of the vessels, that not more than one seal in ten killed and mortally wounded is landed on the boats and skinned; thus you will see the wanton destruction of seal life without any benefit whatever. I think 30,000 skins taken this year by the marauders is a low estimate on this basis; 300,000 fur-seals were killed to secure that number, or three times as many as the Alaska Commercial Company are allowed by law to kill. You can readily see that this great slaughter of seals will, in a few years, make it impossible for 100,000 skins to be taken on the islands by the lessees. I earnestly hope more vigorous measures will be adopted by the Government in dealing with these destructive law-breakers.

William Gavitt, an agent of the United States Treasury, gave this testimony.

Q. I understand you to say—for instance, taking 1887 or 1888—that the 100,000 seals taken upon the islands, and the 40,000 taken and killed in the water, if no greater amount was taken, that there would be no perceptible diminution in the number of seal; that by the natural increase the company might take 40,000 more than now, if it were not for the depredations?—A. I had in mind an average between 25,000 killed in 1888 and about 40,000 in 1887.

Q. What I want to know is this: Is it your opinion that the number taken in the sea, when they are on the way from the islands to the feeding grounds, have a tendency to demoralize the seal and to break up their habits, their confidence, etc.?—A. It would be likely to do it. They are very easily frightened, and the discharge of fire-arms has a tendency to frighten them away.

By Mr. MACDONALD:

Q. No seals are killed by the company in this way?—A. No, sir; they are all killed on the islands with clubs.

Jacob H. Moulton, an agent of the Government, testified:

Q. Do you think it essential to the preservation of seal life to protect the seal in the waters of Alaska and the Pacific?—A. There is no doubt about it.

Q. The herd could be exterminated without taking them upon the islands?—A. They could be exterminated by a system of marauding in the Behring Sea, but I think the number killed along the British Columbia coast did not affect the number we were killing on the islands at that time, because there was apparently an increase during these years. There had been for five or six years up to that time. Since that time in Behring Sea the seal have been gradually decreasing.

Q. You think their decrease is attributable to unlawful hunting in Behring Sea?—A. There is no doubt of that.

Q. As a result of your observation there, could you suggest any better method of preserving seal life in Behring Sea than that now adopted?—A. Not unless they furnished more revenue vessels and men-of-war.

Q. So as to patrol the sea closely?—A. I think so. I do not think the seals scatter much through any great distance during the summer season, although very late in the summer the smaller seals arrive. The females, after giving birth to their young, scatter out in Behring Sea for food. We know they leave the islands to go into the water, because they are coming and going. They suckle their young the same as most animals.

Q. Lawless hunters kill everything they find, I believe, females or not?—A. Yes, sir.

Q. When a female is nursing her young and goes out for food and is killed or wounded, that results also in the death of her young?—A. Yes, sir. As her young does not go into the water, it does not do anything for some time, and can not swim and has to be taught.

Q. The seals are born upon those islands?—A. Yes, sir; they come there for that purpose. They come there expressly to breed, because if they dropped their young in the water the pup would drown.

Q. Do you think the value of the seals justifies the policy that the Government pursues for their preservation and protection?—A. Yes, sir; I do.

Q. And under a rigidly enforced system protecting seal life in the waters of these seas, do you think the herd could be materially increased?—A. I think it would. I think there is no doubt but what it would.

Edward Shields, of Vancouver Island, a sailor on board the British schooner *Caroline*, engaged in seal hunting in Behring Sea in 1886, testified, after the vessel was seized, that the 686 seals taken during the whole time they were cruising in the open sea were chiefly females.

Mr. H. A. Glidden, Treasury agent, recalled, testified as follows:

Q. From the number of skins taken you estimated the number killed?—A. That season I know there were thirty-five vessels in the sea, and we captured fifteen vessels. The catches of the vessels were published in the papers when they arrived home and averaged from 1,000 to 2,500 skins each.

Q. You estimate, then, that during the season 40,000 skins were taken? In killing them in the open sea they do not recover every seal they kill?—A. No, sir; I do not think they do. In fact, I know they do not, judging from the amount of shot and lead taken from the seals that are afterwards killed on St. Paul and St. George Islands.

Q. So that the destruction of the seals in the open sea would be much in excess of the number taken, probably?—A. I have no very accurate information on which to base an opinion, but I should judge that they lost from 40 to 60 per cent. of them. I saw a good many shot from the boats as I was approaching, and think they lost two or three out of five or six that I saw them shoot at.

Q. From your observations have you any recommendations or suggestions to offer, the adoption of which would lead to the better preservation of seal life in these waters than is now provided by law?—A. There is a difference of opinion as to the construction of the law. I firmly believe that the Government should either protect the islands and water in the eastern half of Behring Sea or throw up their interest there. If the Behring Sea is to be regarded as open for vessels to go in and capture seals in the water, they would be exterminated in a short time.

Sir Julian Pauncefote to Mr. Blaine.

[Extract.]

BRITISH LEGATION,
Washington, D. C., March 9, 1890.

DEAR MR. BLAINE: I have the pleasure to send you herewith the memorandum prepared by Mr. Tupper on the seal fishery question, to which he has appended a note by Mr. Dawson, an eminent Canadian official.

Believe me, etc.,

JULIAN PAUNCEFOTE.

[Inclosure 1.]

SYNOPSIS OF REPLY TO MR. BLAINE'S LETTER TO SIR JULIAN FAUNCEFOTE, OF MARCH 1, 1890.

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[Inclosure 2.]

Mr. Tupper to Sir Julian Pauncefote.

THE ARLINGTON,
Washington, March 8, 1890.

DEAR SIR JULIAN: I have the honor to inclose herewith a memorandum prepared by me in reply to the memorandum sent to you by Mr. Blaine, and which you handed to me upon the 3d instant.

I send you a copy for yourself, one for Mr. Blaine, and one for M. de Struvé, the Russian ambassador.

I also have the honor to forward herewith a valuable paper upon the subject, prepared hurriedly by the assistant director of the geological survey of Canada, George Dawson, D. S., F. G. S., F. R. S. C., F. R. M. S.

I may add that Dr. Dawson was in charge of the Yukon expedition in 1887.

Copies of his paper are also inclosed for Mr. Blaine and M. de Struvé.

I am, etc.,

CHARLES H. TUPPER.

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[Inclosure 3.]

MEMORANDUM ON MR. BLAINE'S LETTER TO SIR JULIAN PAUNCEFOTE, DATED MARCH 1, 1890.

In the appendix to Mr. Blaine's letter of March 1, on the 3d page, is an extract from a report to the House of Representatives, as follows:

"In former years fur-seals were found in great numbers on various islands of the South Pacific Ocean, but after a comparatively short period of indiscriminate slaughter the rookeries were deserted, the animals having been killed or driven from their haunts."

While it is admitted that indiscriminate slaughters upon the rookeries are most injurious to the maintenance of seal life, it is denied that in the history of the fur-seal industry any instance can be found where a rookery has ever been destroyed, depleted, or even injured by the killing of seals at sea only.

Mr. Elliott, who is quoted by Mr. Blaine, admits that the rookeries in the South Pacific withstood attacks of the most extensive and destructive character for twenty years, when young and old males and females were indiscriminately knocked on the head upon their breeding grounds; and Mr. Clark (H. R. Report 3883, 50th Cong., 2d sess., p. 91) tells us that in 1820 thirty vessels on the islands (South Shetlands) took in a few weeks 250,000 skins, while thousands were killed and lost. In 1821 and 1822 320,000 skins were taken and 150,000 young seals destroyed. None of these islands, however, were ever frequented by the millions which have been found on the Pribylov group for over twenty years.

"These islands constitute the most valuable rookery or breeding place of these animals ever known to man. (H. R. Report 3883, 50th Cong., pp. 111, 112, Hon. C. A. Williams's written statement.)"

Professor Elliott (in his evidence, p. 142) mentions one person who, when with him at the islands, estimated the number at 16,000,000.

The report of the Congressional committee on the Alaska seal fisheries states that indiscriminate slaughter in the early part of the nineteenth century caused a desertion of the rookeries, and it goes on to say that in 1820 and 1821 300,000 were taken in an indiscriminate fashion at the South Shetlands, and, at the end of the second year, the species had there been almost exterminated.

The Hon. C. A. Williams, whose evidence is cited and relied upon by Mr. Blaine, supports this view (see p. 111, H. R. Report No. 3883, 50th Cong.); but, as a matter of fact, while seals are admittedly not so plentiful in South Shetlands as heretofore, owing to wholesale destruction on the breeding grounds, so prolific are they that, in 1872, 8,000 skins of "the choicest and richest quality were obtained from these islands. In the next season 15,000 skins were taken there, and in 1874 10,000 skins, and from 1870 to 1880 the sealing fleet brought home 92,756 fur-seal skins from the South Shetlands and the vicinity of Cape Horn and Terre del Fuego." (A. Howard Clark, p. 402, Commission of Fisheries, Fishery Industries United States, sec. 5, vol. ii, 1887.) In this regard, it may here be noted that this extract refers only to the catch of sealers which fitted out at New London, Conn., and does not embrace the operations of sealers from other countries.

Mr. Clark describes the manner in which the seals at Mas-a-Fuera were attacked. At page 407 of the article above cited he points out that between the years 1793 and 1807 3,500,000 seals were obtained from this island by English and American vessels, and in 1824 the island was "almost abandoned by these animals." Mr. Clark also shows that in 1797 there were only 2,000,000 on the islands, and yet in seven years more than 3,000,000 were carried from the islands to Canton, China.

Mention is made, too, of fourteen ships' crews on the island at one time killing seals. At page 408 mention is made of from twelve to fifteen crews on shore at the same time (American and English), and that "there were constantly more or less of ships' crews stationed here for the purpose of taking fur-seals' skins"—from 1793 to 1807.

It is contended by the Canadian Government that a reference to the history of this island is entirely beside the contention on the part of the United States that it is necessary to keep sealing craft hundreds of miles away from rookeries in order to preserve the seal life on the breeding grounds.

The cause of injury is the same in all the cases mentioned, and Mr. Chapel, in the appendix to Mr. Blaine's letter, now under consideration, at page 5 well says:

"It is stated that at the Shetlands alone [which never equaled the present condition of the Pribylov group, mentioned by Hon. C. A. Williams, already quoted] 100,000 per annum might have been obtained and the rookeries preserved if taken under proper restrictions; but, in the eagerness of men, old and young male and female seals were killed, and little pups a few days old, deprived of their mothers, died by thousands on the beaches—[it may here be observed that not a case of dead pups was ever found on the Pribylov group, so far as the reports on the islands show]—carcasses and bones strewn on the shores."

This statement, cited in the United States' case, is direct authority for the Canadian contention. It illustrates three important points:

(1) That indiscriminate slaughter on the breeding grounds is injurious and in time destructive.

(2) That when the mothers are killed, the young pups, dying in consequence, are found on the island.

(3) That regulations of the number to be killed on the island, with careful supervision, will maintain the rookeries independently of prohibiting sealing in the waters.

The report of the House of Representatives states:

"The only existing rookeries are those in Alaska, another in the Russian part of Behring Sea, and a third on Lobos Island, at the mouth of the river Plate, in South America."

The statement is incorrect. Important omissions occur, since the cases left out, when examined, show that, notwithstanding all of the extraordinary and indiscriminate slaughter of past years, it is possible, by careful supervision of the rookeries alone, and of the seals while on land, to revive, restore, and maintain lucrative rookeries.

Quoting from an extract from a Russian memorandum respecting the hunting of seals, communicated by M. de Staël to the Marquis of Salisbury, and dated July 25, 1888, it is found that other rookeries are by no means deserted. The extract reads as follows:

"The places where fur-seal hunting is carried on may be divided in two distinct groups. The first group would comprise Pribylov Islands, Behring Sea, 100,000 killed in 1885; Commander Islands (Behring and Copper Islands, 45,000; Seal Islands, Okhotsk Sea, 4,000); total, 149,000.

"The second group, the sea near the coast of Victoria, 20,000; Lobos Islands, 15,000; islands near Cape Horn and the South Polar Sea, 10,000; islands belonging to Japan, 7,000; Cape of Good Hope, 5,000; total, 57,000."

An important omission is the case of Cape of Good Hope, in reference to which the committee of the House of Representatives, previous to their report, had been informed (see H. R. Report 3853, 50th Cong., 2d sess., p. 114) that from the *Cape of Good Hope* skins, under protection of the Cape Government, a yearly supply of 5,000 to 8,000 skins is derived, and that from Japan, it was stated, sometimes 15,000 and sometimes 5,000 a year are received. These islands are now rigidly protected by the governments of the countries to which they belong; but neither does the Government of the Cape, of Japan, nor of Uruguay, in case of the Lobos Islands, consider it necessary to demand the restriction of the pursuit of seals in the open sea.

United States' vessels have visited the islands off the Cape of Good Hope from 1800 to 1835, and have taken on some days 500 to 700 skins, securing several thousands of skins annually. In 1830 Captain Gurdon L. Allyn, of Gale's Ferry, Conn., mentions finding a thousand carcasses of seals at one of the islands, the skins of which had been taken. He landed and took seals in considerable numbers. He was again on a sealing voyage on this coast in 1834, and shot seals on the rookeries.

In 1828 a plague visited these rookeries, and 500,000 seals perished during the plague (Clark in the report of the U. S. Com. of Fish and Fisheries, 1887, sec. v, vol. ii, pp. 415, 416), and yet to-day we find a renewal of the industry by regulations applied *solely* to the rookeries, and *exclusive* of the deep sea operations.

Upon page 7 of the appendix now under review, the report of the Congressional committee on Alaska seal fisheries refers to testimony of United States Government agents regarding the number of seals shot and not secured, and a calculation is referred to, to the effect that one in every seven is alone secured by the hunter who follows seals on the sea. The experience of Canadian hunters is directly opposed to this theory, and shows that a loss of 6 per centum is all that ever takes place, while Indian hunters seldom lose one. Solemn declarations to this effect have been made under the Canadian statute relating to extrajudicial oaths.

In confirmation of this, reference may be had to Mr. H. W. Elliott, in the United States Fish Commissioner's report, vol. ii, sec. v, p. 489, where he says:

"The Aleuts fire at the otter at 1,000 yards range, and that when hit in the head nine times out of ten the shot is fatal."

In the case of hunting the seals, the practice of the white hunters, all expert shots, is to paddle up to the seal while asleep in the water, shoot it in the head, and at once haul it into the boat; while the Indians approach it in a canoe and spear the seal, the head of the spear separating itself and being attached to a rope by which the seal is dragged into the canoe.

Reference is made on page 4 of the appendix to Mr. Blaine's letter to the limitations in the lease of 1870. These conditions, it is contended, are most inconsistent with the present view of the United States regarding the danger to the preservation of seal life. With respect to this the following facts should be carefully noted:

(1) Up to 1862 no law in Russia existed prohibiting or forbidding the killing of

seals, and in that year an inoperative law was promulgated. (See Russian memorandum, Mr. de Staël to Lord Salisbury, 25 July, 1888.)

Mr. McIntyre, a special agent of the Treasury Department (H. R. Ex. Doc. 36, 41st Cong., 2d. sess., page 18), records the catch taken from the Pribylov Islands under the Russian-American company as follows:

Table showing the number of fur-seals taken by the Russians on St. Paul and St. George Islands from 1817 to 1860.

Year.	Number of seals.	Year.	Number of seals.
1817.....	60,188	1840.....	*8,000
1818.....	59,856	1841.....	*8,000
1819.....	52,225	1842.....	10,370
1820.....	50,220	1843.....	11,240
1821.....	44,995	1844.....	11,924
1822.....	36,469	1845.....	13,637
1823.....	29,873	1846.....	15,976
1824.....	25,400	1847.....	17,703
1825.....	30,100	1848.....	14,650
1826.....	23,250	1849.....	21,450
1827.....	19,700	1850.....	6,770
1828.....	23,228	1851.....	6,564
1829.....	20,811	1852.....	6,725
1830.....	18,074	1853.....	18,035
1831.....	16,034	1854.....	26,146
1832.....	16,446	1855.....	8,585
1833.....	18,412	1856.....	23,350
1834.....	15,751	1857.....	21,082
1835.....	6,580	1858.....	31,810
1836.....	6,596	1859.....	22,000
1837.....	6,802	1860.....	21,590
1838.....	*6,000		
1839.....	*6,000	Total in forty-four years.....	765,687

Approximative.

Referring to this table, Mr. McIntyre says:

"The number of seals on St. Paul Island is variously estimated at from 3,000,000 to 4,000,000, including all classes, and on St. George at about one-third as many. I think it may be safely stated that there are not less than 4,000,000 on the two islands. The table from the records of the late Russian-American Company, appended to this report, exhibits the number of seals taken from each island from 1817 to 1837, and from 1842 to 1860. Previously to 1817, says the late Bishop Veniamnoff, no records were kept. From the same authority we learn that during the first few years following the discovery of the islands in 1781 over 100,000 skins were annually obtained; but this, it seems, was too large a number, for the decrease in the yearly return was constant until 1842, when they had become nearly extinct, and in the next decade the whole number secured was 129,178, being in 1852 but 6,564; but from 1842, under judicious management, there appears to have been an increase, and in 1858 31,810 were taken, which was the largest catch in any one year, until 1867, when, as I am informed, some 80,000 or 100,000 were secured, under the supposition that the Territory would soon be transferred to the United States. 'The decrease from 1817 to 1838,' says Bishop Veniamnoff, 'averaged about one-eighth of the whole number annually, so that in 1834 there were produced on both islands, instead of 60,000 to 80,000, only 15,751, and in 1837, 6,802.' From the most careful computation I have been able to make, I am of the opinion that no more than 100,000—75,000 on St. Paul and 25,000 from St. George—can be annually taken without incurring the risk of again diminishing the yearly production, as we observe the Russians to have done in former years."

See also Wick, chief of land service, Russian-American telegraph expedition, who reported in 1868 on undiminished condition of the seal fishery (H. R. Ex. Doc. No. 177, 40th Cong., 2d sess.).

Six million seals had been taken from this sea between 1841 and 1870. (*Vide* Dall on Alaska and its resources, 1870, p. 492.)

(2) In 1868 Hutchinson and Morgan, the promoters and founders of the Alaska Commercial Company, and afterwards lessees of the islands, saw that, unless restrictions were imposed upon the islands, there would be ruin to the rookeries (H. W. Elliott, "Our Arctic Province," pp. 247, 248); consequently, by act of Congress approved July 27, 1868, the killing of fur-seals on the islands was prohibited (W. H. McIntyre, special agent Treasury Department, H. R. Ex. Doc. No. 36, 41st Cong., 2d sess., p. 12). Notwithstanding the act to which reference has been made, 50,000 were

killed on St. George and 150,000 on St. Paul by traders in 1868 (Dall, p. 496), 100,000 in 1869 (W. H. McIntyre, H. R. Ex. Doc. No. 36, 41st Cong., p. 13).

Mr. Wardman, an agent of the United States Treasury at the Seal Islands, in his "Trip to Alaska," published 1884, on page 92, says:

"General onslaught, threatening extermination, by American vessels during the interregnum of departure of Russian and installation of United States Governments took place."

And the same officer, in his sworn testimony given before the Congressional committee, stated that 300,000 were killed in 1869.

"(3) Notwithstanding this condition of affairs, Secretary Boutwell reported in 1870 (H. R. Ex. Doc. No. 129, p. 2, 41st Cong., 2d sess.) that "if the animals are protected, it is probable that about 100,000 skins may be taken each year without diminishing the supply," and that "great care was necessary for the preservation of the seal fisheries upon the islands of St. Paul and St. George."

So Dall, in his book on Alaska (1870, p. 496), in referring to slaughter by Russians, believed that 100,000 seals could safely be killed annually under regulations, and Mr. Blaine, in his dispatch to Sir Julian Pauncefote of the 27th of January, says:

"In the course of a few years of intelligent and interesting experiment the number that could be safely slaughtered was fixed at 100,000 per annum."

Mr. Boutwell, as will be seen on reference to his report, was opposed to a lease, and remarked that it was necessary in any event to maintain *in and around* the islands an enlarged naval force for the protection of the same. This report was followed by the legislation under which a lease was executed in May, 1870.

(4) In drawing the terms of the lease and regulations concerning the islands the United States permitted, in the then state of affairs, the lessees to take 100,000 seals a year for twenty years, and they were permitted to make up this number from any male seals of one year of age or over.

(5) The natives were allowed to destroy on the islands pup seals of either sex for food, numbering in some years 5,000.

(6) The 100,000 could be killed by the lessees in the months of June, July, September, and October.

Upon page 8 of the appendix to Mr. Blaine's note the opinion of the committee of House of Representatives is given to the effect that the protection of the islands is not enough, but that the seals must be protected in their annual migrations to and from the rookeries, and for 50 miles southeast of the rookeries to their feeding grounds. This is a far different proposal from that submitted by the Secretary of State, since it does not embrace the whole of the Behring Sea, but locates the feeding grounds, so called, within 50 miles of the islands.

The other points, on page 8 of the appendix to Mr. Blaine's letter to Sir Julian Pauncefote of the 3d instant, need hardly be dealt with in discussing the necessity for a close season, reference being made therein to the sorting of the herd for killing on land so as not to kill the females. This is admittedly wise, since the killing is done June 14, when the pups are being dropped. The rest of page 8 of Mr. Blaine's memorandum raises the point that a seal is not a fish.

So on page 9 testimony is cited touching the necessity for not killing females on the rookeries, when wholesale slaughter of 100,000 a year goes on, and this is not here controverted. The opinion of Mr. Glidden, whose experience was confined to the *land operations*, regarding the proportion of seals recovered when shot in deep sea, can not be of weight. It is, therefore, unnecessary to dwell upon the fact that he is a Government employé, giving his views in favor of his Government's contention in 1888, after the seizures of 1885 had taken place. This officer was on St. George Island from the 25th of May to August in 1881 only. His opinion that an "open policy" would not preserve the value of the seal fisheries, and that it is necessary to protect the seals in Behring Sea, as well as on the islands, is not based upon much practical knowledge. He further stated that not much hunting was done in the Pacific.

Hon. Mr. Williams, at page 107 of evidence before the Congressional committee, says:

"Three miles beyond land (in Pacific) you do not see them; where they go no one knows."

The British Columbian sealers and the record of their catches in the Pacific for twenty years weakens the standing of these witnesses as experts.

Mr. Taylor, another witness, ascribes to the fish of Behring Sea a very high order of intelligence. He deposes that in Behring Sea the seals eat a great many fish every twenty-four hours, and as "the fish have become well aware of the fact that there is a good many seals on the seal islands, they keep far out to sea." He stands alone in testifying so positively to what can, at best, be a matter for conjecture, and he fails to show he had the slightest means of ascertaining this knowledge. He further stated that the bulls remain on the islands all summer.

This is contradicted by writers and other United States' witnesses, as will be seen hereafter. It is, therefore, evident that this gentleman was testifying simply to his

own peculiar theories regarding seal life upon very limited experience. He says, at one place, that while the cows are out (and they go, he tells us, 10 to 15 miles and even further) the sealers catch them; while, at another place he states:

"The sea is black with them around the islands, where they pick up a good many seal, and there is where the killing of cows occurs—when they go ashore."

So that, evidently, he may have seen cows killed when around the islands, the only place at which he apparently could observe them, and he has merely conjectured the distance that they go from land and the number actually shot in deep water.

This witness "thinks there is some damage done in killing and shooting of the cows and leaving so many young without their mothers." There would be less doubt respecting the cows being shot or lost if it was satisfactorily shown that large numbers of young pups were found dead in the rookeries. The witness, if able, would have certainly pointed to this. The reverse, however, is the fact; and, with the exception of one witness before the Congressional committee, whose evidence will be examined again, not an agent of the Government nor a writer ever stated that pups were found dead in any numbers on the islands from loss of mothers; the fact being that mothers never go far from their young until the young are well able to care for themselves. This witness, notwithstanding his allusion to supposed damage by the killing of mothers, the killing of cows by vessels in shore—where the sea is black with them—had to admit, "the number of seal, in the aggregate, is not apparently diminished." His knowledge is confined to one year (1881), and we have better and undisputed testimony that long after this a great increase had taken place—an increase of millions. Mr. Taylor, it should be observed, however, gave other testimony than that quoted by Mr. Blaine. He said that—

"These predatory vessels are generally there (in Behring Sea) in the spring of the year when the cows are going to the island to breed * * * most of the seals that are killed by these marauding vessels are cows with young."

He estimates the number taken in 1881 at from 5,000 to 8,000.

"These vessels will take occasion to hang around the islands, and when there is a heavy fog to go on the rookeries very often."

The chief damage, according to Mr. Taylor, is not the killing of mothers out at sea when their young are on shore depending upon the return of *their mothers*, as is contended, but it is due, he says, to the insufficient protection of the island. This can, as will be pointed out, be remedied if the suggestions of Government agents are acted upon in the line of better police guarding of the rookeries.

Mr. Williams's testimony is next referred to on page 10 of the appendix to Mr. Blaine's letter. This gentleman was engaged in the whaling business for forty years (page 73 of evidence before Congressional committee). As regards fur-seals, his knowledge is not based upon experience, but "from reading and from conversation with my captains" (p. 73). He was called by request of attorney for the Alaska Commercial Company, of which Mr. Williams was a stockholder.

No importance, it is submitted, can be attached to his testimony regarding the habits and nature of the seal after such a frank confession.

His evidence that females in pup mass together in the sea before landing may therefore be dismissed, since he does not produce any authority for a statement which is contradicted by expert testimony. Neither is his statement that hunters admit that out of eight shots they would save one seal only correct.

On pages 11 and 12 of the appendix Mr. Williams naturally gives his views for holding the control over seal life in Behring Sea. It is not denied that every lessee of the Pribylov group would agree entirely with him in this. It may be remarked that he does not share the theory of the United States that the chief danger lies in killing the mothers when out in the deep sea for food, having left their nurslings on shore.

At pages 10, 11, and 12 of the appendix Mr. Williams is quoted to show that the danger to the females lies in the journey through the Aleutian Islands, with young, to the breeding grounds. On page 90 of his evidence before the committee, he illustrates the ineffective means of protecting the rookeries by stating:

"Last fall a schooner landed at one of the rookeries and killed 17 cows and bulls right on the breeding rookeries."

Again, at page 106 he says:

"That the present measures are somewhat insufficient is shown by the fact that for the last three or four years there have been increased depredations annually upon the rookeries."

"A revenue-cutter goes upon the grounds and then is ordered north for inspection, or for relief of a whaling crew, or something of that kind, and they are gone pretty much the whole time of the sealing season, and there appears to be insufficiency of the method of protection."

On page 108 he says:

"They shoot them as they find them. * * * A vessel can approach within less than half a mile or a quarter of a mile of the island and not be seen (on account of

fog), and can send her boats on the beaches and get off fifty or a hundred skins before the inhabitants can find it out."

Evidently Mr. Williams does not consider the shooting of females far from land is much indulged in, as he insists that the damage is done inshore, where no police protection is enforced.

The history of the rookeries, given on pages 12, 13, and 14 of the appendix, has been dealt with already in this paper.

On pages 14 and 15 of the appendix an article on fur-seals, from Land and Water, written in 1877 by a Mr. Lee, is referred to.

He merely alludes to the indiscriminate slaughter which was practiced on the rookeries, which no one defends or justifies.

Mr. McIntyre, superintendent of the seal fisheries of Alaska for the lessees, is then brought forward by Mr. Blaine.

This gentleman went to the island as a Government agent to inspect the operations of the company. His reports were favorable to and highly eulogistic of the company, and they were immediately followed by his resignation as a Government official and his appointment to a lucrative position under the company.

His testimony is naturally more in favor of the company and of the Government's contention, which is so directly in the interest of the company, than the testimony of any other witness.

He thinks only one-fifth of the seals shot are recovered, and his reason is that he has found seals with bullets in their blubbers on the islands. He attributes a deficiency in the number of seals in 1888 to the fact that cows were killed. He mentions that if cows are killed in August, and their young deprived of their mother's care, the young perish. The young perish also if the mother is killed before they are born. In this way he endeavors to represent such a practice obtains, but it is to be borne in mind that he does not go so far as to say that pups are found dead on the islands in any number. When this officer was reporting on the operations of the company, and before the present contention was raised, he gave a glowing account of the increasing numbers of seals at the islands, as will be shown; but at page 116 of the evidence before the Congressional inquiry he labors to reduce the estimates of both Elliott and Dall by one-third or one-half. He concludes that the number of seals has largely decreased in the last two years (1887 and 1888). The company, however, killed their 100,000 in each of these years. The Government had the discretion to reduce the limit. The Government did not deem it necessary to do so. The number, this witness says, was increasing until 1882, and then other parties began the killing of seals, "especially since 1884." All this told upon the rookeries, and, he added, "a considerable percentage" of the killing was made up of male seals (evidence, p. 117). Mr. McIntyre attempted to count the catch in 1886 and in 1887, and stated that 40,000 skins a year were taken, nearly all in Behring Sea water, and in a few instances by raids on the land. How he obtained this information is not shown. From his position on the island of St. Paul during all that time his statement is obviously a mere surmise.

He could only know *personally* of the catch from raids which were made on the island in 1886 and 1887, and which were due to ineffective protection of the islands. After telling us that a large percentage of the catch of the marauders was made up of adult males, he entirely forgets this, as we find him saying (at p. 118):

"A majority of the skins taken by marauders, in fact 80 or 90 per cent., are from females."

It is submitted that this witness, whose interest on behalf of the company (the lessees) is shown in his confession that it was at times necessary, in order to control the price in the markets, for the company to take less than 100,000 seals (evidence, p. 121) has not strengthened his testimony on the main point by speaking positively to the following, which could only have been known to him by hearsay:

(a) Russia destroyed marauding vessels.

(b) A British vessel in 1887 took 450 seals in Behring Sea, secreted them on a small island, left them, and returned to the sea for more.

(c) Marauders kill 100,000 each season.

(d) It is not true that vessels are seized when pursuing legitimate business.

He goes on to say that for the first fifteen years of the company's lease, viz, from 1870 to 1885, the lessees were unmolested (p. 129), which statement has been shown to be incorrect. He observed that since 1882, and especially since 1884, other parties have been destroying seals, "reducing the equilibrium of the sexes." As will be submitted hereafter, he has been contradicted in regard to this by expert writers, historians, travelers, and agents of the United States Government.

Mr. H. W. Elliott, whose experience is limited to 1872, 1874, and 1876, when, as Mr. McIntyre says, no injury was done by marauders, is next referred to by Mr. Blaine (page 16 of appendix). He is referred to as a member of the Smithsonian Institution; he was also a special agent of the Treasury. The following are extracts taken from

a "report upon the customs districts, public service, and resources of Alaska Territory," by W. L. Morris, special agent of the Treasury Department, 1879:

"In the November number of Harper's Magazine, 1877, appears an article entitled 'Ten years' acquaintance with Alaska, 1867-'77.' The authorship is correctly ascribed to Mr. Henry W. Elliott, now connected with the Smithsonian Institution in subofficial capacity. This gentleman was formerly a special agent of the Treasury Department, under a special act of Congress, approved April 22, 1874, appointed for the purpose of ascertaining at that time the condition of the seal fisheries in Alaska, the haunts and habits of the seal, the preservation and extension of the fisheries as a source of revenue to the United States, with like information respecting the fur-bearing animals of Alaska generally, the statistics of the fur trade and the condition of the people or natives, especially those upon whom the successful prosecution of the fisheries and fur trade is dependent.

"This report of Mr. Elliott will be further noticed hereafter, and, upon the threshold of criticising anything he has written upon Alaska, occasion is here taken to give him full credit for his valuable contribution in regard to fur-seals. It is to be regarded as authority and well conceived. The views of Mr. Elliott, however, in reference to other matters of moment in the Territory are so diametrically opposed and antagonistic to my own that I feel constrained to review some of his statements, glittering generalities, and the wholesale method with which he brushes out of existence with his facile pen and ready artist's brush anything of any essence of value, light, shade, or shadow in the broad expanse of Alaska that does not conform precisely to the rule of investigation and recital laid down by himself, and which contradicts his repeated assurances that outside of the seal islands and the immediate dependencies of the Alaska Commercial Company there is nothing in Alaska.

"This magazine article bears a sort of semi-official indorsement, its authority is not denied, and with this explanation for using the name of Mr. Elliott in connection therewith a few of its crudities and nudities will be noticed."

"THE SENSE-KEEPER OF ALASKA."

"So little is known about Alaska that whenever any thing comes up in Congress relating to it information is sought wherever it can readily be found. The 'informant' is ever on hand, with his work on fur seals comfortably tucked underneath his left arm, to impart all the knowledge extant about the country, 'for he knows more about Alaska than any man living.'

"A decade has passed since we acquired this Territory, and for a decade it has afforded employment and subsistence for its present sense-keeper; but the next decade is warming into national existence, and it is about time this bubble was pricked and the bladder not quite so much inflated.

"I am fully aware of all the consequences to be dreaded, the responsibility assumed, when rash enough to dispute the heretofore self-established authority from the Arctic Ocean to the Portland Canal.

"This man seems to be the natural foe of Alaska, prosecuting and persecuting her with the brush of the pencil and the pen of an expert whenever and wherever he can get an audience, and I attribute the present forlorn condition of the Territory to-day more to his ignorance and misrepresentation than to all other causes combined. He is accused of being the paid creature and hired tool of the Alaska Commercial Company, and belonging to them body and soul. I have made diligent inquiry, and ascertain he is not in their employ, and furthermore they repudiate the ownership. They should not be held responsible for the indiscreet utterings of the sense-keeper, notwithstanding the charge of ownership might cause him to be more readily listened to.

"Doubtless when they have been attacked through the columns of the press they have employed this individual, who is unquestionably possessed with the *cacoethes scribendi* to reply to unjustifiable onslaughts, and paid him for it, as they would any other penny-liner who makes literature and writing for the press his profession."

His evidence in 1888 is open advocacy of the United States' contention. His writings and reports prior to the dispute will be referred to, and it will be submitted that his statements and experiences before 1888 hardly support his later theories. His statement on page 17 of the appendix, that wounded seals swim away to perish at a point never to be seen again is contradicted by the last witness, Mr. McIntyre, who picked handfuls of buckshot, etc., out of seals clubbed on the islands. His theory of the difficulty of shooting seals is contrary to the known practice of the hunters to creep upon the seal as it lies floating in the calm waters of the sea and by his own testimony, before quoted, of the unerring aim of the Indian hunters.

Mr. Tingle, an agent of the Treasury, in charge of the fur-seal islands from April, 1885, to August, 1886, is quoted by Mr. Blaine (appendix, p. 17).

Mr. Tingle is not able to go so far as Mr. McIntyre, although he was at the islands in 1886 (evidence, p. 153), but he stated "there has been a slight diminution of seals,

probably." He estimated 30,000 were taken by marauders, and to do this he guesses that 500,000 were killed. This gentleman, as an agent of the Treasury, was confined to the islands during his tenure of office (evidence, p. 153).

He bases his contention on the log of a marauding schooner which fell into his hands. This log was, it may be remarked, not produced, and no excuse is given for withholding it. He produced what he said was a copy. As his opinions are based upon this curious statement, his testimony can hardly be seriously pressed. He testified to insolence of sealers when seized, though he does not appear to have been present at any of the seizures. The log-book, it should be observed, is said to have belonged to the *Angel Dolly*.

This is not the name of a Canadian sealer, and it may here be stated that no Canadian sealer has ever been found within the 3-mile limit. The operations on the schooner *Angel Dolly* must have been rather expensive, and they do not corroborate the allegation that large catches were made, since three hundred rounds of ammunition (Mr. Tingle said) were wasted for the capture of one seal. Another supposed entry in the log is most extraordinary for the captain of a sealer under any circumstances to make. The statement referred to is as follows:

"It is very discouraging to issue a large quantity of ammunition to your boats and have so few seals returned."

There is not a magistrate's court in the country that would listen to this oral testimony as to the contents of a log. A reference to this pretended log—a copy of a portion thereof only being produced by Mr. McIntyre (p. 332 of evidence)—shows that the captain had an exceptionally bad crew. The captain described them in the following terms: "The hardest set of hunters in Behring Sea;" he "never will be caught with such a crowd again; they are all a set of curs." The captain added, however, that if "we only had hunters we would be going home now with 1,500 skins at the very least;" and, from the log, it would appear that he had no regular hunters on board. It is worthy of remark that the statements made by Mr. Tingle respecting the entries in this alleged log are not confirmed by an inspection of the transcript Mr. McIntyre produces. (On p. 332 of evidence.)

Mr. Tingle contradicts Mr. McIntyre regarding the number of seals on the island. He states (p. 162, evidence) that there had been an increase of seals since Mr. Elliott's count in 1876 of 2,137,500. He expressed natural astonishment (p. 163) at the statement of Mr. Elliott regarding a decrease. He says:

"I am at a loss to know how Mr. Elliott gets his information, as he has not been on the islands for fourteen years."

Pushed by the chairman of the committee by the following question, viz, "It is Mr. McIntyre's opinion that they have not only not increased but have decreased," the witness in reply stated that "there has been a slight diminution of seals, probably."

The next authority quoted by the United States is William Gavitt, a special agent of the Treasury at St. George Island from May, 1887, to August, 1888. The evidence of this witness is not referred to at any length by Mr. Blaine. The witness testified before the Congressional committee, however, that the employés of the company (the lessees) did not respect the laws of God or man. He named particularly Mr. Webster, Doctor Luty, John Kirk, and John Hall (p. 180). And he added that the rules of the company were violated (p. 181). The committee handled this witness rather roughly, Mr. Jeffries saying to him (p. 188):

"You had better understand what you are talking about."

On page 191 he rebukes other officers of the Treasury who had testified positively to matters without the means of knowledge. The witness was asked:

"What was the result of your observations and opinions that you deem reliable in respect to the unlawful killing of seal annually?"

The witness answered that—

"We have no means of knowing that."

He was then pressed in this way:

"It is a mere matter of estimate, of course, but I wish it based upon as reliable information as you have."

When the witness said—

"I think the first season the revenue-cutter captured 15,000 stolen skins (p. 191); where they were stolen, whether in the sea or out of it, no agent can truthfully say."

He also showed that the lessees of the islands were not so particular as other agents pretend, when he tells us (p. 191) that they brought from the natives at Oonalaska 5,000 seals killed by them there (p. 196). The United States puts forward this officer as a reliable witness, and it is therefore but fair to attach importance to a statement which weakens the force of the *ex parte* statement and opinion of the special agents sent from time to time to the islands, and who have now been brought forward on behalf of the United States as witnesses in support of a case which concerns not merely the Government, but most directly the lessees. The witness states that one of the employés of the company told him that when a Government officer came

there and got along with the company it was profitable. Upon being asked by the committee before whom he was giving evidence to explain, he replied that—

"A man could draw two salaries, like Mr. Falkner and Judge Glidden—one from the Government and one from the company." (P. 191.)

Mr. Moulton's evidence is next presented (p. 19 of appendix). He was a Government agent from 1877 to 1885. He said that there was an apparent increase during the first five years, *i. e.*, to 1882, then a decrease to 1885. (Evidence, p. 255.) In this statement he has been contradicted by official reports, as will be shown.

The witness admits, however, that female seals, after giving birth to their young, scatter out in Behring Sea; and he is of opinion that lawless hunters kill all they find, and that they find mothers away from their nurslings. No special reason for this opinion is given, however.

A sailor, Edward Shields, of Vancouver, formerly on the sealing schooner *Caroline*, is said to have testified, where and when it is not stated (p. 20 of appendix to Mr. Blaine's letter), that in 1886 out of 686 seals taken by the *Caroline* the seals were chiefly females. Upon this it may be said that it is the custom among hunters to class all seals the skins of which are the size or near the size of the female as "females," for their guidance as to the quality of skins in the catch. It may also be remarked that it does not appear that these females were in milk, and this is always known when skinning the seal. "Dry cows" are caught, as has been admitted, and taking this evidence, given *ex parte* as it was, it is at best, if true, an exceptional case in a very small catch.

Mr. Glidden was recalled by the committee, and explained that his estimate of 40,000 skins was based on newspaper reports of the catch of the sealers. He was, of course, unable to show how many of these were taken near the Aleutian Islands, in the North Pacific, or on the west coast of British Columbia, or in the Puget Sound, but he evidently credits the whole estimated catch to Behring Sea. Consequently he was of opinion that sealing in Behring Sea should be ended, to lead to the better preservation of seal life.

It is to be observed that not one of these witnesses, whose opinions are relied upon both as to the catch, the habits, and sex of the seal in deep water and the method of killing, etc., has had any experience as a hunter or with hunters. They were not hunters. They were sent to the islands to see that the lessees performed their obligations as covenanted in the lease. The experience of most of them was limited to a few years' residence on the seal islands, associated with and under the natural influence of a company admittedly a monopoly and desirous of restricting the catch so as to control the market of the world as far as seals are concerned.

None of the witnesses were, moreover, submitted to a cross-examination, and they were to a large extent led by the examiners in the questions put to them. The only facts that were possibly within their knowledge relate to seal life on the islands, to the mode of killing, and to the times when killed there, and to their habits when in and upon the rookeries.

The opinions of the gentlemen given before the Congressional committee in 1888 for the most part, though sometimes contradictory, are in favor of the under-mentioned theories:

(1) That the female seals while nursing their young go great distances in search of food.

(2) That when out a great distance female seals are shot, and the pups on shore are lost for want of their mothers' care.

(3) That the greater part of the catch in Behring Sea is made up of female seals.

(4) That the destruction of the seals when hunted on the sea is great in consequence of many wounded seals being lost.

All these opinions are put forward in support of the main proposition of the United States, viz., that since 1882, and especially since 1884, the number of seals actually collecting on the breeding ground has constantly diminished.

The Canadian Government joins issue upon this, and the counter assertion is made that there has been no appreciable diminution of seals frequenting the rookeries, and it is claimed that the seals are more numerous and more valuable upon the rookeries to-day than ever in their previous history; that this is the fact notwithstanding the rookeries have been for twenty years practically unprotected from frequent and most dangerous raids upon the actual breeding grounds and many other injuries, all within the control of the Government of the United States, as hereinafter specified:

The Canadian Government asserts that the seal life upon the islands can not only be maintained, but greatly increased, by the adoption on the part of the United States of—

First. An efficient means for the patrol and protection of the islands.

Second. By the prohibition of the killing of pups by the natives for food.

Third. By reducing the number of yearling seals to be killed by the lessees.

Fourth. By not permitting any killing of seals upon the islands, except in July, August, and September.

Fifth. By preventing the Aleuts from killing seals on their migration through the Aleutian Islands on their way to and from the breeding grounds.

In Mr. Blaine's dispatch to Sir Julian Pauncefote, of the 27th of January, 1890, he proceeds upon a somewhat different ground than the evidence already reviewed, in order to show the necessity for prohibition of sealing in the waters of Behring Sea.

The *ex parte* evidence before the Congressional committee satisfied that committee that "the present number of seals on St. Paul and St. George Islands has materially diminished during the last two or three years," viz., from 1886 to 1889, while Mr. McIntyre, whose evidence is so much relied upon by the United States, dates the decrease from 1882.

Mr. Blaine, however, adopts the view that the rookeries were in prime condition and undiminished until 1885, when, as he says, Canadian sealers made their advent into Behring Sea and the injury began.

It is therefore important to point out that the operations of the Canadian sealers were absolutely harmless compared with the numerous depredations upon the islands for the last century, which, however, have not yet begun to affect the value and number of seals on these wonderful rookeries.

Already evidence has been cited in this paper establishing the fact that extraordinary slaughter occurred prior to 1870, and that after all this, when the total number of seals on St. Paul and St. George Islands was admittedly less than now, it was deemed safe to permit 100,000 male seals of one year or over to be killed annually for twenty years, etc.

In 1870 Collector Phelps, of San Francisco, reported:

"I am assured the entire number taken south of the islands of St. George and St. Paul will aggregate, say, 10,000 to 20,000 per annum." (H. R. Ex. Doc. No. 35, 44th Cong., 1st sess.)

The Acting Secretary of the Treasury Department, in September, 1870, gave permission to the company to use fire-arms for protection of the islands against marauders. (H. R., 44th Cong., 1st sess., Ex. Doc. No. 35.)

In 1872 Collector Phelps to Mr. Secretary Boutwell reports expedition fitting out in Australia and Victoria for sealing in Behring Sea with the object of capturing seals on their migrations to and from St. Paul and St. George Islands. Secretary Boutwell did not consider it expedient to interfere with these operations if they were carried on 3 miles from land.

In 1874 Mr. Secretary Sawyer, writing to Mr. H. W. Elliott, referred to British vessels taking fur-seals in United States waters and to the seals becoming more numerous.

In 1875 Mr. William McIntyre, an assistant agent of the Treasury, describes having been told that the crew of the schooner *Cygnét*, as she lay at anchor in Zapadne Bay in 1874, were shooting seals from the deck, skinning them, and throwing the carcasses overboard, which was alarming the seals and driving them from their breeding grounds. And he said:

"I wished to give the captain of the vessel timely warning before proceeding to harsh measures. I had armed the natives with the intention of repelling by force any attempts to kill seal on the rookeries or within rifle-shot of the shore, if the crews still persisted in doing so after the receipt of my letter to the captain."

He described the operations of the *Cygnét* under the cliff near the rookery, which alarmed the seals so that they left the rookery in large numbers. (Ex. Doc. No. 83, p. 124, 44th Cong., 1st sess.)

This vessel is again reported by Special Agent Bryant in May 12, 1875. (Ex. Doc. 83, p. 125, 44th Cong., 1st sess.)

From 1874 to 1878 Mr. F. J. Morgan, attorney for the Alaska Company, was on the islands during the years 1868, 1869, and from 1874 to 1878. He speaks of several raids upon the islands in his time, and he says the whole question is one or more cruises to protect the rookeries on the islands. (H. R. Ex. Doc. 3883, 50th Cong., pp. 58, 71, 109.)

In 1875 the evidence of Darius Lyman contains the following information. (Report, Committee on Ways and Means, House report No. 623, 44th Cong., 1st sess.)

Answering Mr. Burchard as to what he knew about the seizure of the *San Diego*, Mr. Lyman replied:

"There was a seizure made of the *San Diego*, a schooner, near St. Paul Island on the 27th of July last (1875), on board of which were 1,660 fur-seal skins. The *San Diego* was sent down to California, and arrived there in August."

On page 73 of the same report, Mr. Elliott, in answer to Mr. Chapin, says that the skins taken from the *San Diego* were from Otter Island, one of the leased group.

In 1880 Mr. McIntyre reported the estimated annual slaughter of 5,000 pregnant females on the British Columbia coast.

From reports of Special Agent Ottis and Captain Bailey respecting the people of Alaska and their condition (Senate Ex. Doc. 132, 46th Cong., 2d sess., vol. 4, p. 4), Captain Bailey says:

"During April and May all the coast Indians, from the mouth of the straits of Fuca to the north end of Prince of Wales Island, find profitable employment in taking fur-

seals which seem to be making the passage along the coast to the north, being probably a portion of the vast number that finally congregate at the Seal Island later in the season. I am informed by the Indians that most of the seals taken along this coast are females, and their skins find a market at the various Hudson Bay posts."

On page 34 of the same report, in a list of the vessels boarded, he gives the United States schooner *Loleta*, Dexter master, seized at the seal islands by Special Agent Ottis.

In a report by Special Commissioner Ivan Petroff in the year 1880, he says:

"As these seals pass up and down the coast as far as the Straits of Fuca and the mouth of Columbia River, quite a number of them are secured by hunters, who shoot or spear them as they find them asleep at sea. Also small vessels are fitted out in San Francisco, which regularly cruise in these waters for the purpose alone of shooting sleeping seal." (H. R. Ex. Doc. No. 40, 46th Cong., 3d sess., vol. 18, p. 65.)

At page 61 of the same report this officer speaks of the natives securing 1,200 to 1,400 young fur-seals in *transitu* through Oonalga Pass.

Special Agent D. B. Taylor, in 1881, states that the company was powerless to protect the islands, but that if a harbor was built and a steam-launch stationed at each island they could be protected. He states that vessels go to the islands and kill 10,000 to 15,000 a year, and that one hundred vessels have been prowling about these islands for twenty years. (H. R. Ex. Doc. No. 3883, 50th Cong., p. 58.)

Mr. Treasury Agent H. A. Glidden, who was on the islands from 1882 to 1885, shows that the trouble is at the islands. The hunters go there on moonlight nights. He stated that he took possession of a vessel while the crew were on shore killing seals. The Government, he goes on to say, did not keep vessels there in his time, and he recommended that a revenue cutter should be kept there to guard the islands. (H. R. Ex. Doc. 3883, 50th Cong., p. 28.)

Prior to the decision of the United States to arrest vessels outside the 3-mile limit in Behring Sea experience had shown that the police force at the islands could not protect them from raids. This is illustrated in a letter from the Secretary of the Treasury, Mr. W. McCulloch, dated the 24th of February, 1885, wherein he recommends that \$25,000 be obtained for the protection of seals and the enforcement of the laws.

"The seal fisheries"—

He states—

"yield annually to the Government a revenue of about \$300,000. The islands on which the seals are taken are protected from incursions of marauding vessels alone through the cruising of the revenue-cutters. Last year the officers of the *Corwin* seized a schooner engaged in taking seals unlawfully. Without the use of cutters the fur-seal industry has no protection."

The letter closes by asking for \$25,000 "in the estimates for next year." (H. R. Ex. Doc. 252, 48th Cong., 2d sess., vol. 29.)

September 1, 1884, the Hamburg schooner *Adele* was seized for violation of section 1956, Revised Statutes United States.

In 1884 Captain McLean, master of the schooner *Mary Ellen*, was in Behring Sea from the 8th of July to the 22d of August. He took 2,007 seals, and was not interfered with. (See his declaration under act for the suppression of extrajudicial and voluntary oaths.)

Mr. George Wardman, an officer of the United States Government, was at the seal islands May, 1885. He was also there in 1879, and, in addition to his evidence before the Congressional committee, he has reported to his Government and has written a book upon Alaska and Behring Sea, "Wardman's Trip to Alaska," published in 1884. At page 116 of this is given an account of the raiding of Otter Islands and the consequent request for a revenue-marine guard at that place during the sealing season, which was granted.

In 1885 Captain McLean again visited Behring Sea in the *Mary Ellen*. He was there from the 4th of July to the 3d of September. He took 2,300 seals, and was not interfered with.

Captain Healy, in reporting on the cruise of the *Corwin* in the Behring Sea, in 1885, when speaking of the seal fisheries, said:

"During the year quite a number of vessels have raided Alaskan waters for seals and other fur-bearing animals." (H. R. Ex. Doc. No. 153, 49th Cong., 1st sess., vol. 32.)

In 1886 the governor of Alaska, in his report for that year (p. 43), states that an indiscriminate slaughter was carried on *previous* to the seizures of 1885.

In 1886 Special Agent Tingle, to Secretary Fairchild, congratulated the Government on the arrest of the *San Diego*, which he called "an old offender." "This," Mr. Tingle remarked, "will do much to break up marauding business around the islands." He further urged the Government to keep a cutter about the islands from July 1 to the 1st of November.

The above references, it is submitted, establish conclusively the defenseless con-

dition of the islands from the depredations of the marauders or poachers upon the rookeries (not one being a Canadian) ever since the islands came into the possession of the United States.

Mr. Blaine, in his dispatch of the 27th of January, 1890, remarks that—

"Proceeding by a close obedience to the laws of nature, and rigidly limiting the number to be annually slaughtered, the Government succeeded in increasing the total number of seals and adding correspondingly and largely to the value of the fisheries."

And in the same dispatch he speaks of the profitable pursuit of this business down to the year 1886.

To show that at the present time the value of the islands is greater and their condition is better than ever, it is only necessary to observe that while the late lessees paid to the Government of the United States an annual rental of \$50,000 in addition to \$2.62½ per skin for the total number taken, the offers, when the islands were put up for competition in 1890, were enormously exceeded, as will be seen on reference to a schedule of the proposals submitted to the United States' Treasury Department in response to the advertisements of the Treasury inviting offers for the privileges, dated December 24, 1889, and February 20, 1890.

Upon reference to the evidence before the Congressional committee (H. R. No. 3883, 50th Cong., 2d sess.), it will be seen that "the Government now, *without any care or risk*, gets \$317,000 a year for the lease." And at page 99 of the same report it is stated that the annual income from skins to the Government was \$512,736, and that in sixteen years the United States' Government received from the Alaskan fur-seal industry \$8,203,776.

It is further stated that the Government had then already been repaid the capital sum paid for the whole Territory of Alaska, and more, with "her many varied, and, as I believe, incomparably great national resources, to represent the investment of capital first made."

"FIFTH.—THE RECEIPTS AND EXPENSES OF THE GOVERNMENT ON ACCOUNT OF SAID CONTRACT.

"The total amount paid by the lessees on account of said contract up to June 30, 1888, inclusive, was \$5,597,100. The total amount expended by the Government during the same period was about \$250,000 for salaries and traveling expenses of agents of the Treasury Department at the seal islands, and about \$150,000 for the revenue-cutters cruising Alaskan waters.

"To the amount already received direct from the company should be added the sum received by the United States from customs duties on Alaskan dressed seal-skins imported from Europe, amounting to \$3,426,000, to which should be added the sum of \$502,000 customs duties on imported seal-skins taken by said company under its contract with Russia, making an aggregate amount received by the Government on account of this industry of \$9,525,233, being \$2,325,283 in excess of the amount paid to Russia for the Territory" (Report of Congress, 1888.)

It can now be shown how marvelous has been the increase of seals on these islands, notwithstanding the absence of the protection to the rookeries and 3-mile limit, whether around the islands or at the different passes in the Aleutian range, where the breeding seals in pup go twice a year.

In 1869 Special Agent Bryant estimated the number of seals to be as follows (41st Cong., 3d sess., No. 32, Senate, p. 7):

On St. Paul Island.....	1, 152, 000
On St. George Island.....	576, 000
Total.....	1, 728, 000

In 1874 Mr. Elliott, after examination, estimated the number of seals to be:

On St. Paul Island.....	3, 030, 000
On St. George Island.....	163, 420
Total.....	3, 193, 420

Exclusive of non-breeding seals, and adding those to the estimate of Mr. Elliott just quoted, he himself said that the total would reach 4,700,000.

In 1884, long after the period when McIntyre stated that the seals were decreasing—as he said since 1882—Mr. Wardman, when writing from the islands, tells us—

"The number of seals is steadily increasing." ("A Trip to Alaska," p. 93.)

Mr. H. A. Glidden, an agent of the Treasury from 1882 to the 8th of June, 1885, an authority quoted by Mr. Blaine in support of the United States' contention, told the Congressional committee in 1888, in replying to the question, "What do you say

about the increase or diminution of the number of seals on the rookeries of St. Paul and St. George?"

"I did not notice any change. * * * I could not see any particular difference. They come and have their young and go away. The period of gestation is eleven months, and then they come back in the spring following. They are there during the season in countless numbers." (Evidence before Congressional committee, p. 27.)

Mr. George R. Tingle, a special agent of the Treasury, gave his evidence before the same committee, and he is put forward by Mr. Blaine in support of the United States' contention. (Appendix to Mr. Blaine's letter to Sir Julian Pauncefote, March 1, p. 17.)

Confirming Mr. Glidden's opinion, as above quoted, Mr. Tingle said:

"From Mr. Elliott's statement I understand that there are no more seals *now* than there were in 1872. I am at a loss to know how Mr. Elliott got his information, as he had not been on the islands for fourteen years."

The same Mr. Tingle, in 1887, reported to Secretary Fairchild that—

"He found the lines of occupancy extending beyond those of last year, and the cows quite as densely packed on the ground on most of the rookeries, whilst on two rookeries there is some falling off. *It is certain*, however, this vast number of animals, so valuable to the Government, are still on the increase. The condition of all the rookeries could not be better." (Appendix to report, Congressional committee, 1888, p. 359.)

In a report of the Alaska Commercial Company (December 13, 1887), it is stated that Mr. George R. Tingle, the agent appointed by the Secretary of the Treasury, substantially confirms Mr. Elliott in his view referred to above, excepting that, upon a careful survey by himself in 1886, he estimated that the fur-seals upon the two islands had increased in number about 2,000,000 up to that time. Mr. Tingle's estimate for 1886 is 6,537,450 (H. R. Ex. Doc. No. 31, 50th Cong., 1st sess.), and in December the Alaska Commercial Company, in their report, said that the seals were on the increase.

The latest definite information appearing in the United States documents regarding the condition of the rookeries is contained in the report of Mr. Tingle, who, as special agent of the Treasury Department, wrote from St. Paul Island, Alaska, July 31, 1888, as follows:

"I am happy to be able to report that, although late landing, the breeding rookeries are filled out to the lines of measurement heretofore made, and some of them much beyond these lines, showing conclusively that seal life is not being depleted, but is fully up to the estimates given in my report of 1887."

From the above United States officials it is clear that, with only partial protection on the islands, the seals have increased in an amazing degree. These islands, containing in 1874 the largest number of seals ever found in the history of sealing at any place, contain to-day a more astounding number.

When the number was less than half of what it is at present, Lieut. Washburn Maynard, of the U. S. Navy, was instructed to make an investigation into the condition of the fur trade of the Territory of Alaska, and in 1874 he reported that 112,000 young male seals had been annually killed in each year, from 1870 to 1874, on the islands comprising the Pribilof group, and he did not think that this diminished the numbers. Lieutenant Maynard's report (44th Cong., 1st sess., H. R. No. 43), as well as that of Mr. Bryant in 1869 (Ex. Doc. No. 32, 41st Cong., 2d sess.), largely supports the contention of the Canadian Government respecting the productiveness of the seal and their habits during the breeding season.

It is not denied that seals enter Behring Sea for the purpose of resorting to the islands to propagate their species, and because the immense herd is chiefly confined to the islands for this purpose during the breeding season it is that the seals have so constantly increased.

Notwithstanding the lax efforts on the part of the United States to guard or patrol the breeding islands, the difficulty of approaching the rough coasts thereof, the prevalence of fogs and other causes have, in a large degree, prevented too destructive or too numerous raids being made upon the rookeries.

The Canadian Government contends that while seals in calf are taken on and off the coasts of British Columbia and California, and also during their migrations near the Aleutian Islands by Indians and Aleuts, the bulk of the seals taken in the open sea of that part of the Pacific Ocean called Behring Sea are bulls both old and young—but chiefly young—and that most of the cows when taken are known as "dry cows," i. e., cows that have nursed and weaned their young, or cows that are barren, or those that have lost pups from natural causes.

It must also be noted that there are more females than males in a herd of seals. ("Trip to Alaska," Wardman, p. 94.)

The position taken by the Canadian Government is supported:

(1) By the history of the rookeries as above given and the great increase shown despite the constant killing and raids upon the islands during the past century.

(2) By the fact that the old bulls that have been able to hold their position on the rookeries go into the water at the end of the rutting season, between 1st and 10th of August. (H. R. Ex. Doc. No. 83, 44th Cong., 1st sess., app. p. 132.)

Mr. Clark, on the Antarctic seal fisheries, in "The Fisheries and Fishery Industries in the United States," 1887, pp. 423, 424, says:

"In very stormy weather, when they (the seals) are driven into the sea, they are forced to betake themselves to the sheltered side of the island, hence the men find that stormy weather pays them best. Two or three old males, termed 'beach masters,' hold a beach to themselves and cover it with cows, but allow no other males to haul up. The males fight furiously, and one man told me that he had seen an old male take up a younger one in his teeth and throw him into the air. The males show fight when whipped, and are with great difficulty driven into the sea.

"They are sometimes treated with horrible brutality. The females give birth to the young soon after their arrival.

"After leaving the rookeries the bulls do not return to them again that season."

(3) By the fact that two-thirds of all the males that are born are never permitted to land upon the same ground with the females. This large band of bachelors, when it visits land, herds miles away from the breeding grounds. (H. W. Elliott, H. R. No. 3883, 50th Cong., p. 112.)

They are driven off into the water. (Clark's article on Antarctic seal fishery industries of the United States, sec. v, vol. ii, 1887, p. 431.)

Young seals are prevented from landing on rookeries. (Ex. Doc. 83, 44th Cong., 1st sess., p. 93; see also Elliott, H. R., 44th Cong., 1st sess., Ex. Doc. No. 83.)

Yearling seals arrive about the middle of July accompanied by a few of the mature males, remaining a greater part of the time in the water. (H. H. McIntire, 41st Cong., 2d sess., H. R. No. 36, p. 14; also H. R. Ex. Doc. 43, 1st sess., 44th Cong., p. 4.)

Mr. Samuel Falkner, assistant Treasury agent, writing from St. George Island August 1, 1873, to Mr. Bryant, Treasury agent for the seal islands, says:

"I notice on some of the rookeries the passage ways, formerly occupied by young bachelors in hauling upon the background, are completely blocked up by females, thus preventing the young seals from landing, and, as the greater portion of this island and shore is composed of high cliffs, it renders it difficult for any great number to effect a landing. There are also numerous old males constantly guarding the shore line, which makes it still more difficult for the young ones to work their way on the background."

Then, again, it must be remembered that the non-breeding seals, consisting of all the yearlings and all the males under six or seven years of age, nearly equal in number the breeding seals, and Mr. Elliott estimated, when there were 4,700,000 seals on the island, 1,500,000 of this number were non-breeding seals. (Elliott, app. to H. R. Ex. Doc. No. 83, 44th Cong., 1st sess., p. 79.)

On thick, foggy days bachelor seals numbering over a million will often haul out on different hauling grounds, and on the recurrence of fine weather disappear into the water. (Elliott, p. 144, H. R., 44th Cong., 1st sess., Ex. Doc. 83.)

The young bachelors do not remain on shore long at a time. (P. 4, 44th Cong., 1st sess., Ex. Doc. No. 43.) They are so numerous, however, that thousands can be seen upon the hauling grounds, as all of them are never either on shore or in the water at the same time. (*Ibid.*, p. 44.) By the fact that the cows remain with their pups and suckle them until all have left.

They do not go on the rookeries until three years of age. (H. R. Ex. Doc., 44th Cong., 1st sess., No. 43, p. 4.)

They do not go far from shore until the young are reared. Peron says that both parent elephant seals stay with the young without feeding at all until the young are six or seven weeks old, and that then the old ones conduct the young to the water. (Clark's article on Antarctic seals, p. 424.)

The young are suckled by the females for some time and then left to themselves, lying on the beach, where they seem to grow fat without further feeding. ("The Fisheries and Fishing Industries of the United States," sec. v, vol. ii, 1887, p. 424.) For this reason those that are pupped in June are off in the water in August.

So, also, on the African coast the seal remains until the young can take care of themselves. (*Ibid.* p. 416.)

The bulk of the seals are confined to the islands until ice surrounds them. (H. R. Ex. Doc. No. 45, 44th Cong., 1st sess., p. 2.)

The seals never leave their places, seldom sleep, and never eat anything from May to August, when they take to the water, but, it is believed, take no food until their final departure in November. (H. H. McIntire, H. R. Ex. Doc. No. 36, 41st Cong., 2d sess., vol. 5.) Mr. Elliott says, "perhaps she feeds." (P. 130 his report on Alaska, 1874, H. R. No. 83 Ex. Doc., 44th Cong.)

The bulls, while on the island, prevent the mothers taking to the water. (Marine mammals, by Captain Shannon, "United States Revenue Marine," 1874, p. 152.)

From 10th to 25th of July the rookeries are fuller than at any other time during the

season, as the pups have all been born, and all the bulls, cows, and pups remain within their limits. (H. R. Ex. Doc. No. 43, 44th Cong., 1st sess., p. 3.)

It has been shown that when in the rookeries mothers were destroyed, the young were found dead, etc., but Professor Elliott, in reference to the Pribylov Islands, says:

"With the exception of those animals which have received wounds in combat, no sick or dying seals are seen upon the islands."

"Out of the great numbers, thousands upon thousands of seals that must die every year from old age alone, not one have I ever seen here. They evidently give up their lives at sea." (His report on Alaska, 1874, H. R. Ex. Doc. 83, 44th Cong., p. 150.)

To further prove that the contention of the Canadian Government is not at all unreasonable, it may be said that at the International Fisheries Exhibition, London, 1883, Mr. Brown Goode, of the U. S. Fish Commission, having stated the regulations of the United States concerning the Pribylov group, the official report upon the exhibition, says:

"Every animal, both in sea and on land, reproduces its kind in greater numbers than can possibly exist. In other words, all animals tend to multiply more rapidly than their food; many of them must in consequence either die or be destroyed, and man may rest satisfied that so far as the open ocean is concerned, the fish which he destroys, if he abstain from destroying, would perish in other ways. With respect to the former (seals), I have already pointed out that the restriction which the United States' Government has placed on the destruction of seals in the Alaskan islands seem unnecessarily large."

He added that nature has imposed a limit to their destruction.

Professor Elliott himself was of the opinion in 1874 (see his report on Alaska already referred to, pp. 88, 89) that—

"With regard to the increase of the seal life, I do not think it within the power of human management to promote this end to the slightest appreciable degree beyond its present extent and condition in a state of nature; for it can not fail to be evident, from my detailed description of the habits and life of the fur-seal on these islands during a great part of the year, that, could man have the same supervision and control over this animal during the whole season which he has at his command while they visit the land, he might cause them to multiply and increase, as he would so many cattle, to an indefinite number, only limited by time and means; but the case in question, unfortunately, takes the fur-seal six months out of every year far beyond the reach, or even cognizance of any one, where it is exposed to known powerful and destructive natural enemies, and many others probably unknown, which prey upon it, and, in accordance with a well-recognized law of nature, keep it at about a certain number, which has been for ages, and will be for the future, as affairs now are, its maximum limit of increase. This law holds good everywhere throughout the animal kingdom, regulating and preserving the equilibrium of life in a state of nature. Did it not hold good, these seal islands and all Behring Sea would have been literally covered, and have swarmed with them long before the Russians discovered them; but there were no more seals when first seen here by human eyes in 1786-'87 than there are now, in 1874, as far as all evidence goes."

"What can be done to promote their increase? We can not cause a greater number of females to be born every year; we do not touch or disturb these females as they grow up and live, and we save more than enough males to serve them. Nothing more can be done, for it is impossible to protect them from deadly enemies in their wanderings for food."

"This great body of four and five millions of hearty, active animals must consume an enormous amount of food every year. They can not average less than 5 pounds of fish each per diem (this is not half enough for an adult male), which gives the consumption of over three million tons of fish every year!"

"To get this immense food supply the seals are compelled to disperse over a very large area of the North Pacific and fish. This brings them into contact more and more with their enemies as they advance south, until they reach a point where their annual destruction from natural foes is equal to their increase, and at this point their number will remain fixed. About the seal islands I have failed to notice the least disturbance among these animals by anything in the water or out, and from my observation I am led to believe that it is not until they descend well to the south in the North Pacific that they meet with sharks and voracious killer-whales."

The following extract from the report of Mr. H. H. McIntyre, special agent of the Treasury at the islands in 1869, largely supports the foregoing views:

"The habits of the fur-seal are peculiar, and in considering the action necessary

* "In the stomach of one of these animals (year before last) fourteen small harp-seals were found."—Michael Carroll's report, Canadian Fisheries, 1872.

to their protection deserve careful attention. From the statements of the employés of the late Russian-American Company, the information derived from the intelligent native chief of St. Paul Island, and my own observation during the summer of 1869 I have reached the following conclusions: The seals reach the islands of St. Paul and St. George in May, June, and July of each year in the following order: first, a small number of old male seals, known as *wigs*, visit the islands very early in the spring, or as soon as the ice has melted sufficiently to allow them to reach the rocks upon the shore. Their object at this time seems to be solely to reconnoiter their old rookeries with a view to re-occupy them, if they have not been disturbed, and the natives, so understanding it, avoid any noise likely to alarm them, and in case the wind is in such direction as to carry the smoke from the settlement towards the rookeries all fires are extinguished. After a few days these pioneers take their departure, and as the season advances, if they have been undisturbed on the occasion of their first visit, they return, bringing with them all the males of mature age, above five or six years old, who are able to maintain their places in the breeding rookeries. Climbing up on the rocks, each seal selects his position and takes possession of and occupies through the season, if sufficiently strong, from 1 to 3 square rods of ground.

"Still later in the season, when the ice has nearly disappeared, the females arrive, conveyed by the young males above one year of age, who are unable to occupy the rookeries with their seniors. The females, immediately on reaching the shore, are appropriated by the old males and taken to the places respectively selected by them for the season, which is generally the same for many successive years. It is asserted that the same male seal has been known to occupy one rock for more than twenty seasons. The young seals above one year of age, called bachelors, take their positions around the edges of the rookeries or remain in the water, and are constantly trying to steal the females from their respective masters, who also rob each other of their families, by stealth or strength, whenever occasion offers, and thus an incessant quarrel is maintained at all points, which keeps the old males constantly on the alert. They never leave their places, seldom sleep, nor do they eat anything whatever during the entire season from May to August, when they go into the water, but, as far as can be ascertained, take no food until their final departure in November. It may be remarked, however, that they are very fat on arrival and quite as lean at the time of leaving, in autumn. The young seals are supposed to feed while in the water, but this has not been definitely proved, nor is the nature of their food well known, since an examination of their stomachs seldom reveals more than a green, mucilaginous matter. Following all others, the yearling seals arrive about the middle of July, accompanied by a few of the older males, and remain for the greater part of the time in the water. Soon after their arrival, in the months of June and July, the females bring forth their young." (Ex. Doc., 41st Cong., 2d sess., No. 36, p. 14.)

Reference has been made to the raids upon the rookeries, and to the fact that insufficient care has been taken of the breeding ground. It is contended that it is the duty of the Government drawing an enormous rental from these islands to carefully guard and protect them, and it is undoubted that with efficient protection the increase of seal life will be more marvelous than ever.

Mr. Tingle, in 1886, in his report to Secretary Fairchild, urges the Government to keep a cutter around the islands from the 1st of July to the 1st of November.

Mr. Morgan, in 1888, in his evidence before Congress (p. 23), said there were not sufficient cutters for the protection of the islands, and Mr. Wardman, special agent of the Treasury at the islands, 1881 to 1885, said:

"I think the Government ought to keep at least one revenue steamer therein and about these two islands up until the middle of October at least. The trouble has been in the revenue marine service. The appropriations were all right, and a fellow would be sent up to nominally protect the seal islands, but he would also be ordered to look for the north pole as well as watch the seal islands. He might find the north pole, but not around the seal islands. He would be away just at the time he would be needed around there." (Evidence before Congressional committee, p. 38.)

The Hon. Mr. Williams said:

"The Government practice, through the Treasury Department, has been to protect these waters so far as they could with the revenue cutters which are at their command. Still, it has frequently happened that a revenue-cutter goes upon the seal ground and then is ordered north for inspection, or for the relief of a whaling crew or something of that kind, and they are gone pretty much the whole time of the sealing season, and there seems to be an insufficiency in the method of protection." (Evidence before Congressional committee, p. 106.)

Mr. Taylor, special agent of the Treasury in 1881, said before the same committee (p. 58):

"The difficulty heretofore has been that our revenue cutters have been obliged to cover a territory of 800 miles long and 700 or 800 miles wide, north and south, and they would get around to the seal islands about twice during a season. They never happened to be there when needed, and, as far as rendering any service whatever is con-

cerned, they were practically useless so far as the seal islands were concerned. That has been the experience, I believe, of all who have been there."

This officer recommended steam-launches for Government agents at the islands. (Evidence before Congressional committee, p. 109.)

Mr. Glidden, another agent of the Treasury from 1882 to 1885, says (evidence Congressional committee, p. 28) when he was at the islands the Government kept no vessels there.

"They landed our officers on a little island 6 miles from St. Paul to watch. In every report I made I recommended that they should keep a revenue-cutter there. One vessel can not protect those islands and visit the Arctic Ocean besides. The cruising ground is far too extensive, covering, as it does, a distance of several thousand miles, and while the cutter is absent in the Arctic much damage can be done by the marauding vessels to the seal islands."

That Congress regarded it at the outset as the duty, at least, of the administration, to simply guard and regulate the islands is clear from the act first dealing with the subject.

Mr. Boutwell, the Secretary of the Treasury, reported in 1870 (41st Cong., 2d sess., Ex. Doc. 109) as follows:

"A suggestion has been made to this Department, in various forms, that the Government should lease these islands for a long period of time to a company or firm, for an annual sum of money, upon the condition that provision should be made for the subsistence and education of the natives, and that the fisheries themselves should be preserved from injury. This plan is open to the very grave objection that it makes a monopoly of a branch of industry, important not only for the people of the islands but to the people of the United States, if the preparation and manufacture of the skins for use should be transferred from London to this country. Such a monopoly is contrary to the ideas of the people, and not many years would pass before serious efforts would be made for its overthrow. Moreover, the natives of the islands would be under the control of the company, and, as the expiration of the lease approached, the inducements to protect them and preserve the fisheries would diminish, especially if the company saw, as would probably be the case, that it had no hope of a renewal of its privileges. Under these circumstances the Government of the United States would necessarily be subjected to great expense and trouble.

"For these reasons, briefly stated, but valid, as they appear to me, I can not concur in the suggestion that the islands should be leased to any company for a period of years.

"Inasmuch as it will be necessary for the Government of the United States to maintain in and around the islands a military and naval force for the protection of its interests under any plan that can be devised, I am of opinion that it is better that the Government should assume the entire control of the business of the islands, and exclude everybody but its own servants and agents; that it should establish a rigid system of police, excluding from the islands distilled spirits and fire-arms, and subject vessels that touch there to forfeiture, except when they are driven to seek shelter or for necessary repairs. The conditions of such occupancy and control by the Government of the United States seem to me to be these:

"First, the exclusion of other parties; second, the supply to the natives of such articles as they are accustomed to use; third, compensation to the natives for their labor, and the payment of a sufficient additional sum each year to enable them to live in the manner to which they have been accustomed; fourth, an equitable division of the value of the skins over the payments made to the natives, and the cost to the Government of the United States of maintaining such force as is necessary for the protection of the business.

"The portion of the surplus equitably belonging to the natives might be set aside for the purpose of education and religious teaching, the erection of more suitable dwellings than they now possess, and generally for their physical, intellectual, and moral improvement.

"If the Government were to lease the islands it would not be possible to withdraw entirely the military and naval forces, or to neglect a careful supervision, and the additional expense consequent upon retaining possession of the business of the islands in the hands of the Government would not be large.

"Ordinarily, I agree in the opinion that a government, especially one of that of the United States, is not adapted to the management of business; but this clearly is a business which can not be left open to individual competition; and if it is to be a monopoly, whether profitable or otherwise, the interest of the Government is so large, and the expenses incident to the protection of these islands so great, that it can not afford to substitute to any extent the monopoly of an individual or of a company for its own lawful supervision.

"Should the Government fail in the attempt to manage the business through its own agents, there will then be opportunity to lease the fisheries to private parties;

but my opinion is that a larger revenue can be obtained from them by actual management than by a lease.

"In further reply to the resolution, I have to say that the skins taken in 1868 were removed by Messrs. Kohl, Hutchinson & Co., the Solicitor of the Treasury being of opinion that the Government had no legal authority to detain them. Those taken in 1869 are upon the islands, but no decision has been made touching the rights of the Government.

"In concluding this report, I desire to call the attention of Congress to the fact that it is necessary to legislate immediately so far as to provide for the business of the present year. The natives will commence the capture of seals about the 1st of June.

"If the islands are to be leased for the present year it should be done immediately, that the lessee may make provision for the business of the year. If the business of the present year is to be conducted by the Government, as I think it should be, whatever our future policy, legislation is necessary; and I suggest that the Secretary of the Treasury be authorized to appoint agents in Alaska, who shall be empowered to superintend the capture of the seals and the curing of the skins; and that an appropriation shall be made of \$100,000, out of which the natives shall be paid for the labor performed by them and the other expenses incident to the business met.

"The Secretary of the Treasury should also be authorized to sell the skins at public auction or upon sealed proposals at San Francisco or New York, as he may deem most for the interest of the Government.

"It should be observed in this connection that the Government derived no benefit whatever from the seal fishery of the year 1868, and that the skins taken in 1869 are, nominally at least, the property of two companies, while the Government, during the last year, has furnished protection to the natives and the fishery, and has no assurance at present that it will derive any benefit whatever therefrom.

"If legislation is long delayed the business of the year 1870 will be but a repetition of that of 1869."

While the Canadian contention is supported, as has been seen, by many extracts from the reports of officials of the United States Government, it is apparent that the desire of the lessees, and indirectly that of the officials, has been to create a monopoly in the fur-seal industry, since in this way the market for the skins is largely enhanced and the value of the islands greatly increased.

This is no doubt one reason for the divergent opinions entertained as to the best regulations for the preservation of seal life between those who control the islands and those who are compelled to hunt the seals in the ocean.

In support of the above assertion the following authorities are in point:

Mr. Bryant, in 1869 (Senate Ex. Doc. No. 32, 41st Cong., 2d sess.), stated that the large number taken in 1867 and in 1868 decreased the London valuation to \$3 and \$4 a skin.

Mr. Moore, in a report to the Secretary of the Treasury (H. R. Ex. Doc. No. 83, p. 196, 44th Cong., 1st sess.), says, when alluding to the advisability of killing more seals than prescribed by the act of July 1, 1870:

"It seems that the 100,000 fur-seals from our own islands, together with the 30,000 obtained by them from Asiatic islands, besides the scattering fur-seals killed in the south seas, are all the market of the world can conveniently take. In fact, it is pretty evident that the very restriction of the numbers killed is about the most valuable part of the franchise of the Alaska Commercial Company, and it is only another proof of the absurdity of the frequent charges made against them that they surreptitiously take from our islands 20,000 to 30,000 more seals than they are entitled to take.

"There does not exist any doubt, nor indeed is it denied by the Alaska Commercial Company, that the lease of the islands of St. Paul and St. George is highly lucrative. The great success of this franchise is, however, owing, as far as I could ascertain, to three principal causes: First, the Alaska Commercial Company, owing to the fact that they have the sole control of the three Asiatic islands on which fur-seals are found, as well as on our own islands, as St. Paul and St. George, virtually manage the sale of 80 per cent. of all the fur-seals killed annually in the world; secondly, the arbitrary and somewhat eccentric law of fashion has raised the price of fur-seals in the markets of the world during the last four years fully 100 per cent. in value; thirdly, time and experience have given this controlling company most valuable advantages. For instance, in the island of St. Paul, where a reputed number of from 3,000,000 to 3,500,000 of seals congregate, the comparatively small quantity only of formerly 75,000 and now 90,000 are killed. The company employs experts in selecting easily the kind that are the most valuable in the market, and have no difficulty in getting 90,000 out of a flock of 3,000,000 to 3,500,000, which are the select of the select; and it is owing to this cause, and to the care taken in avoiding cuts in the skins, as also in properly preparing them for the market, that the high prices are

obtained. Indeed, the fact is that a fur-seal selling now in London for £2 10s. or £3 is, owing to its superior quality and excellent condition, cheaper than the fur-seals which five years ago fetched 30 shillings sterling. The former mode of the indiscriminate killing of fur-seals was as detrimental to the value of the skins as it was to the existence of the breed. With such a valuable franchise, secured by a contract that has still fifteen years to run, but which could, without notice, be terminated by the Secretary of the Treasury for cause, it would indeed be a suicidal policy on the part of the company to infringe on the stipulations of the contract."

All this is explained in the evidence before the Congressional committee, pages 77, 101, 105, and 121, where the company is shown not to have taken the full quota in two years.

"Not because we could not get enough seals, but because the market did not demand them. There were plenty of seals." (Evidence before Congressional Committee, p. 121.)

Mr. McIntyre, once a special agent, has already been quoted, and was afterwards in the service of the company, reported, in 1863, to the Speaker of the House of Representatives, Mr. Blaine (H. R. Ex. Doc. No. 36, 41st Cong., 2d sess.), that—

"The number of skins that may be secured, however, should not be taken as the criterion on which to fix the limit of the yearly catch, but rather the demand of the market, keeping, of course, always within the annual production. It appears that under the Russian management a much larger number was sometimes killed than could be advantageously disposed of. Thus, in 1863, after the slaughter had been conducted for some years without regard to the market, an accumulation of 800,000 skins was found in the storehouses on the islands, 700,000 of which were thrown into the sea as worthless. At several times since that date the market has been glutted, and sales almost or quite suspended. A few months previously to the transfer of Alaska to the United States seal-skins were worth in London only \$1.50 to \$3 each, and several thousand skins owned by the Russian-American Company were sold to parties in San Francisco, at the time of the transfer, at 50 cents to \$1.25, a sum insufficient to pay the present cost of securing and transporting them to that city. Soon afterwards, however, fur-seal garments became fashionable in Europe, and in the expectation that the usual supply would be cut off by reason of the transfer of Alaska, prices advanced to \$4 to \$7 per skin; contrary to the expectation of dealers more than 200,000 skins were taken by the various parties engaged in the business on the islands in 1868, and the London price has declined to \$3 to \$4 per skin; and I am assured that if the raw skins now held by dealers in London were thrown upon the market, a sufficient sum to pay the cost of transportation from the islands could hardly be realized. The number of raw skins now upon the market is not less than 350,000, and it is predicted that several years must elapse before the demand will again raise the price above the present rate, if, indeed, the large surplus of skins does not carry it much lower before reaction begins."

Many of the dangers to seal life have been mentioned, and it has been shown that the herd still thrives; but the wonderful productiveness of the seal is further shown by an allusion to a danger greater than all the assaults of man in the deep sea—a danger ever existing, which naturally tends to keep the seals inshore, or, when outside, to scatter.

Reference is made to the killer-whales and sharks. (H. R. Ex. Doc. 83, 44th Cong., 1st sess., p. 177, and pp. 80, 87 of appendix to the same document; also page 359 of evidence before Congressional committee, 1888.)

"That these animals are preyed upon extensively by killer-whales (*Orca gladiator*) in especial, and by sharks, and probably other submarine foes now unknown, is at once evident; for were they not held in check by some such cause they would, as they exist to-day on St. Paul, quickly multiply, by arithmetical progression, to so great an extent that the island, nay, Behring Sea itself, could not contain them. The present annual killing of 100,000 out of a yearly total of over a million males does not in any appreciable degree diminish the seal life, or interfere in the slightest with its regular, sure perpetuation on the breeding grounds every year. We may, therefore, properly look upon this aggregate of four and five millions of fur-seals as we see them every season on these Pribylov Islands as the maximum limit of increase assigned to them by natural law. The great equilibrium which nature holds in life upon this earth must be sustained at St. Paul as well as elsewhere. (Elliott's report, pp. 62, 64.)

"When before the Committee of Ways and Means on the 17th of March, 1876, on the investigation before alluded to, Mr. Elliott made a similar statement, giving in somewhat greater detail the reasons for his conclusions. His evidence will be found annexed to the report of the committee." (Report No. 623, H. R., 44th Cong., 1st sess.)

Respecting the practice of sealing as known in Canada, it may be said: Canadian sealers start out upon their sealing voyages some time in the beginning of the year. The vessels go down to a point off San Francisco, and from thence work north. The

seals taken by them off the coast are of both sexes, many in pup, some young bulls; very few old bulls run in the Pacific Ocean.

The catch of each vessel will average between 500 and 700 seals a year between 1st of January and the end of May.

When an untrained crew is taken, many shots may be fired without hitting the seals at all, since the novice expects he can hit when at considerable distance, the seals in such cases escaping entirely; but with Indian hunters and expert whites a seal is nearly always captured when hit. An expert never shoots until after he has arrived at close quarters, and generally when the seal is asleep.

In Behring Sea the catch is made up largely of young bachelors.

Sealing captains contend that no male becomes fit for the rookeries until six years of age. This contention is supported by the authorities to whom reference has already been made.

It is further contended that should a temporary diminution of seal life become apparent upon the islands of the Pribylov group, it would not follow that the herds were decreasing. Professor Elliott, in his report of 1874 upon Alaska, so frequently referred to in this paper, argues on pages 235 and 266 that in such a case a corresponding augmentation may occur in Copper or Behring Island, since "these animals are not particularly attached to the respective places of their birth."

"Thus it appears to me necessary that definite knowledge concerning the Commander Islands and the Kuriles should be possessed; without it I should not hesitate to say that any report made by an agent of the Department as to a visible diminution of the seal life on the Pribylovs due, in his opinion, to the effect of killing as it is conducted was without good foundation; that this diminution would have been noticed just the same in all likelihood had there been no taking of seals at all on the islands, and that the missing seals are more than probably on the Russian grounds."

[Inclosure 4.]

NOTE ON THE QUESTION OF THE PROTECTION OF THE FUR-SEAL IN THE NORTH PACIFIC.

(By Mr. George Dawson, D. S., F. G. S., F. R. S. C., F. R. M. S., Assistant Director of the Geological Survey of Canada.)

The mode of protection which is apparently advocated by the United States Government in the case of the fur-seal, viz, that of leasing the privilege of killing the animal on the breeding grounds and prohibiting its capture elsewhere, is a new departure in the matter of such protection. If, indeed, the whole sweep of the Pacific Ocean north of the equator was dominated and effectively controlled by the United States, something might be said in favor of some such mode of protection from a commercial point of view; but in the actual circumstances the results would be so entirely in favor of the United States, and so completely opposed to the interests and natural rights of citizens of all other countries, that it is preposterous to suppose that such a mode of protection of these animals can be maintained.

Such an assumption can be based in this case on one or other only of two grounds: Stated briefly, the position of the United States in the matter appears to be based on the idea of allowing, for a money consideration, the slaughter of the maximum possible number of seals compatible with the continued existence of the animals on the Pribylov Islands, while, in order that this number shall not be reduced, no sealing is to be permitted elsewhere.

(1) That Behring Sea is a *mare clausum*.

(2) That each and every fur-seal is the property of the United States.

Both claims have been made in one form or other, but neither has, so far as I know, been officially formulated.

The first is simply disproved by the geographical features of Behring Sea, by the fact that this sea and Behring Strait contribute the open highway to the Arctic and to part of the northern shore of Canada, by the previous action of the United States Government when this sea was nearly surrounded by Russian territory, and by the fact that from 1842 to the date of the purchase of Alaska fleets of United States and other whalers were annually engaged in Behring Sea. It is scarcely possible that any serious attempt will be made to support this contention. (Bancroft's History, vol. 33, Alaska, p. 583 *et seq.*)

The second ground of claim is candidly advanced by H. W. Elliott, who writes:

"The fur-seals of Alaska, collectively and individually, are the property of the General Government. * * * Every fur-seal playing in the waters of Behring Sea around about the Pribylov Islands, no matter if found so doing 100 miles away from

those rookeries, belong there, has been begotten and born thereon, and is the animal that the explicit shield of the law protects. No legal sophism or quibble can cloud the whole truth of my statement. * * * The matter is, however, now thoroughly appreciated and understood at the Treasury Department, and has been during the past four years, as the seal pirates have discovered to their chagrin and discomfiture." (U. S. 10th Census, vol. 8, Fur-Seal Islands, p. 157.)

Waiving for the moment the general objection which may be raised to the enforcement of such a principle on the high seas—an enforcement which the United States, in the interest of the Alaska Fur Company, appear to have undertaken—the facts upon which the assumption are based may be questioned. Mr. Elliott, in fact, himself writes, on the same page (referring to the presence of a large sealing fleet in Behring Sea), that it could not fail "in a few short years in so harassing and irritating the breeding seals as to cause their withdrawal from the Alaska rookeries, and probable retreat to those of Russia—a source of undoubted Muscovite delight and emolument and of corresponding loss and shame to us."

This remark implies that the seals may resort to either the Pribylov or the Russian islands, according to circumstances; and who is to judge, in the case of a particular animal, in which of these places it has been born? The old theory that the seals returned each year to the same spot has been amply disproved. Elliott himself admits this, and it is confirmed (op. cit., p. 31) by Capt. Charles Bryant, who resided eight years in the Pribylov Islands as Government agent, and who, having marked 160 seals in 1870, on St. Paul Island, recognized, the next year, 4 of them in different rookeries on that island and 2 on St. George Island. (Monograph on North American Pinnipeds, Allen, 1880, p. 401.)

It is, moreover, by no means certain that the fur-seals breed exclusively on the Russian and United States seal islands of Behring Sea, though these islands are no doubt their principal and important breeding places. They were formerly, according to Captain Shannon, found in considerable numbers on the coast of California; and Capt Bryant was credibly informed ("Marine Mammals of Coast of Northwest North America," p. 152, 154, quoted by Allen, op. cit., p. 332) of the existence in recent years of small breeding colonies of these animals on the Queen Charlotte Islands of British Columbia. Mr. Allen further quotes from the observations of Mr. James G. Swan, field assistant of the United States Commissioner of Fish and Fisheries.

"Mr. Swan" (I quote from Mr. Elliott) "has passed nearly an average life-time on the Northwest coast, and has rendered to natural science and to ethnology efficient and valuable service."

His statements may therefore be received with respect. He writes:

"The fact that they (the fur-seals) do bear pups in the open ocean, off Fuca Strait, is well established by the evidence of every one of the sealing captains, the Indians, and my own personal observations. Dr. Power says the facts do not admit of dispute. * * *

It seems as preposterous to my mind to suppose that all the fur-seals of the North Pacific go to the Pribylov Islands as to suppose that all the salmon go to the Columbia or Fraser River or to the Yukon."

To this Prof. D. S. Jordan, the well-known naturalist, adds:

"I may remark that I saw a live fur-seal pup at Cape Flattery, taken from an old seal just killed, showing that the time of bringing them forth was just at hand."

On these statements Mr. Allen himself remarks:

"These observations, aside from the judicious suggestions made by Mr. Swan, are of special interest as confirming those made some years ago by Captain Bryant, and already briefly recorded in this work. They seem to show that at least a certain number of fur-seals repair to secluded places, suited to their needs, as far south as the latitude of Cape Flattery, to bring forth their young." (Allen, op. cit., pp. 411, 772, 773.)

Mr. Elliott, of course, stoutly denies the authenticity of all these observations, it being necessary to do so in order to maintain his contention as to the ownership of the United States Government, or the Alaska Fur Company, as the case may be, in the seals.

It has further been often stated that the killing of fur-seals in the open sea off the North Pacific coast is a comparatively new departure, while it is, as a matter of fact, morally certain that the Indians of the whole length of that coast have pursued and killed these animals from time immemorial. As the value of the skins has, however, only of late years become fully known and appreciated, it is naturally difficult to obtain much trustworthy evidence of this without considerable research. Some facts can, however, be adduced. Thus, Captain Shannon described the mode of hunting seals in canoes employed by the Indians of Vancouver Island, and refers to the capture of seals by the Indians off the Straits of Fuca, where, he adds, they appear—

"Some years as early as the 1st of March, and more or less remain till July or August, but they are most plentiful in April and May. During these two months the Indians devote nearly all their time to sealing when the weather will permit."

In 1843 to 1864 only a few dozen skins are known to have been taken annually, but in 1869 fully 5,000 were obtained. Mr. Allen, writing in 1880, states that—

"During the winter months considerable numbers of seal-skins are taken by the natives of British Columbia, some years as many as 2,000." (Allen, *op. cit.*, pp. 332, 371, 411.)

The protection of the fur-seals from extermination has from time to time been speciously advanced as a sufficient reason for extraordinary departures from the respect usually paid to private property and to international rights; but any protection based on the lease of the breeding grounds of these animals as places of slaughter, and an attempt to preserve the seals when at large and spread over the ocean, as they are during the greater part of each year, is unfair in its operation, unsound in principle, and impracticable in enforcement.

Referring to the interests of the Indians of the Northwest coast, it is true that a certain number of Aleuts now on the Pribylov Islands (398 in all, according to Elliott) are dependent on the sealing business for subsistence, but these islands were uninhabited when discovered by the Russians, who brought these people here for their own convenience. Further south along the coast the natives of the Aleutian Islands, of the southeast coast of Alaska, and of the entire coast of British Columbia have been, and still are, accustomed annually to kill considerable numbers of seals. This it would be unjust to interfere with, even were it possible to carry out any regulations with that effect. The further development of oceanic sealing affords employment to, and serves as a mode of advancement and civilization for, these Indians, and is one of the natural industries of the coast. No allusion need be made to the prescriptive rights of the white sealers, which are well known.

The unsoundness of this principle of conservation is shown by what has occurred in the southern hemisphere in respect to the fur-seals of that region. About the beginning of the century very productive sealing grounds existed in the Falkland Islands, Kerguelen Islands, Georgian Islands, the west coast of Patagonia, and many other places similarly situated, all of which were in the course of a few years almost absolutely stripped of seals, and in many of which the animal is now practically extinct. This destruction of the southern fur-sealing trade was not caused by promiscuous sealing at sea, but entirely by hunting on and around the shores, and, had these islands been protected as breeding places, the fur-seals would in all probability be nearly as abundant in the south to-day as they were at the date at which the trade commenced.

The impracticability of preventing the killing of seals on the open sea and of efficiently patrolling the North Pacific for this purpose is sufficiently obvious. The seals, moreover, when at sea (in marked contrast with their boldness and docility in their breeding places), are extremely wary, and the number which can be obtained by legitimate hunting at sea must always be small as compared with the total. Elliott, in fact, states that the seal, when at sea, "is the shyest and wariest your ingenuity can define." (*Op. cit.*, p. 65.)

The position is such that at the present time the perpetuation or the extermination of the fur-seal in the North Pacific as a commercial factor practically depends entirely on the regulations and restrictions which may be applied by the United States to the Pribylov Islands, and now that this is understood a regard for the general interest of its own citizens, as well as for those of other countries, demands that the extermination or serious depletion of the seals on their breeding islands should be prevented. It is probably not necessary for this purpose that the killing of seals on these islands should be entirely prohibited. Both Elliott and Bryant show good reason for believing that a large number of seals may be killed annually without reducing the average aggregate number which can find suitable breeding grounds on these islands, and after the very great reduction in numbers which occurred, owing to an inclement season about 1836 (Elliott), or 1842 (Bryant), the seals increased very rapidly again, and in a few years being nearly as numerous as in 1873, when the total number on the islands was estimated at over 4,700,000.

By retaining an efficient control of the number of seals to be killed on the Pribylov Islands, and by fixing this number anew each season in accordance with circumstances, the United States Government will be in a position to counteract the effect of other causes tending to diminish the number of seals, whether climatic or resulting from the killing of a larger number at sea. There is no reason to apprehend that the number of seals which might thus be safely killed on the islands would under any circumstances be so small as to fail to cover the cost of the administration and protection of the islands. If such a policy as this, based on the common interests in the preservation of the seals, were adopted, it might be reasonable to agree (for the purpose of safeguarding the islands and for police purposes) that the jurisdiction of the United States in this matter should be admitted to extend to some greater distance than this usual one of 3 marine miles, though, as shown further on, the necessary distance would not be great.

The situation of the Pribylov Islands and the habits of the seal together cause the problem of its preservation to be one of extreme simplicity if approached from the point of view of protection on and about the islands, but one of very great difficulty if looked at from any other stand-point. The long-continued and presumably accurate observations which have been made on the habits of the seals show that during the entire breeding season they are very closely confined to the immediate shores of the breeding islands, and that neither in arriving nor in departing from these islands do they form schools or appear together in such numbers as to render promiscuous slaughter at sea possible. The old bulls actually remain on shore during the entire breeding season, while the females, though leaving their young for a time to time for the water, are described as haunting the immediate vicinity of the shores just beyond the line of surf. Even the bachelor seals (Elliott, op. cit., pp. 45, 64 *et passim*; Allen, op. cit., p. 386), which constitute a distinct body while ashore and are not actually engaged in breeding or protecting the young, are said to remain close to the shore. If, however, any seals are to be found at this time going to or returning from the sea at some distance from land, these belong to the "bachelor" class, which is the very class selected for the killing by the fur company. The young females, after leaving the islands in the year of their birth, do not return at all till after reaching maturity in their third year. (Allen, op. cit., p. 402.)

The evidence obtained by Captain Bryant shows that while "small groups of small seals (apparently one and two years old)" are met with at large in Behring Sea during July and August, no considerable numbers of schools are to be found. (Allen, op. cit., p. 411.)

It is thus apparent that the perfect security of the seals actually engaged in breeding and suckling their young may be secured without extending the limits of protection beyond the usual distance of 3 miles from the shores of the breeding islands, but that for the purpose of increasing the facilities of supervision a somewhat wider limit might reasonably be accorded. Possibly by defining an area inclosed by lines joining points 3 miles off the extreme headlands and inlets of the Pribylov group, an ample and unobjectionable area of protection might be established.

It is allowed by all naturalists that the habits of the fur-seal of the southern hemisphere are identical with those of the seal of the North Pacific, and it is therefore admissible to quote the observations of Dampier on Juan Fernandez Island in further confirmation of the fact that these animals go only for a very short distance from land during the breeding season, even when in immense multitudes on the shore. Dampier writes:

"Here are always thousands, I might say possibly millions of them, either sitting on the bays or going and coming in the sea round the islands, which is covered with them (as they lie at the top of the water playing and sunning themselves) for a mile or two from the shore." ("A New Voyage Round the World," 1703; quoted by Allen, op. cit., p. 334.)

These rookeries have, like others in the South, been long since depleted and abandoned.

The circumstance that the female fur-seal becomes pregnant within a few days after the birth of its young, and that the period of gestation is nearly twelve months, with the fact that the skins are at all times fit for market (though for a few weeks, extending from the middle of August to the end of September, during the progress of the shedding and renewal of the longer hair, they are of less value), show that there is no natural basis for a close season generally applicable. Thus, should any close season be advocated, its length and the time of year during which it shall occur, can only be determined as a matter of convenience and be of the nature of a compromise between the various interests involved. The pelagic habits of the seals during the six months of each year, and the fact that they are during the entire winter season widely dispersed over the Pacific, constitute a natural and unavoidable close season. It is thus only possible, from a commercial point of view, to kill the seals during the period of their approximate concentration for migration or when in Behring Sea. This is the period fixed by nature during which seals may be taken, and any artificial close season can be effective only if applied to the further curtailment of the time at which it is possible to carry on the fishery. It may be assumed, therefore, as such a close season for seal hunting at sea must be purely arbitrary and artificial, that any close season proposed by the United States or the lessees of the seal islands will be chosen entirely in the interest of sealing on shore, and so arranged as to render the time of sealing on the open sea as short and unprofitable as possible. It is thus important that the sea-going sealers should at least have an equal voice in the matter of the time and duration of a close period if such should be contemplated.

GEORGE M. DAWSON.

MARCH 5, 1890.

Sir Julian Pannecote to Mr. Blaine.

WASHINGTON, April —, 1890. (Received April 30.)

DEAR MR. BLAINE: At the last sitting of the Conference on the Behring Sea Fisheries question, you expressed doubts, after reading the memorandum of the Canadian Minister of Marine and Fisheries, which by your courtesy has since been printed, whether any arrangement could be arrived at that would be satisfactory to Canada.

You observed that the proposal of the United States had now been two years before Her Majesty's Government, that there was nothing further to urge in support of it; and you invited me to make a counter proposal on their behalf. To that task I have most earnestly applied myself, and while fully sensible of its great difficulty, owing to the conflict of opinion and of testimony which has manifested itself in the course of our discussions, I do not despair of arriving at a solution which will be satisfactory to all the Governments concerned. It has been admitted, from the commencement, that the sole object of the negotiation is the preservation of the fur-seal species for the benefit of mankind, and that no considerations of advantage to any particular nation, or of benefit to any private interest, should enter into the question.

Such being the basis of negotiation, it would be strange indeed if we should fail to devise the means of solving the difficulties which have unfortunately arisen. I will proceed to explain by what method this result can, in my judgment, be attained. The great divergence of views which exists as to whether any restrictions on pelagic sealing are necessary for the preservation of the fur seal species, and if so, as to the character and extent of such restrictions, renders it impossible in my opinion to arrive at any solution which would satisfy public opinion either in Canada or Great Britain, or in any country which may be invited to accede to the proposed arrangement, without a full inquiry by a mixed commission of experts, the result of whose labors and investigations, in the region of the seal fishery, would probably dispose of all the points in dispute.

As regards the immediate necessities of the case I am prepared to recommend to my Government for their approval and acceptance, certain measures of precaution which might be adopted provisionally and without prejudice to the ultimate decision on the points to be investigated by the commission. Those measures, which I will explain later on, would effectually remove all reasonable apprehension of any depletion of the fur seal species, at all events, pending the report of the commission.

It is important, in this relation, to note that while it has been contended on the part of the United States Government that the depletion of the fur seal species has already commenced and that even the extermination of the species is threatened within a measurable space of time, the latest reports of the United States agent, Mr. Tingle, are such as to dissipate all such alarms.

Mr. Tingle in 1887 reported that the vast number of seals was on the increase and that the condition of all the rookeries could not be better.

In his later report, dated July 31, 1888, he wrote as follows:

I am happy to be able to report that, although late landing, the breeding rookeries are filled out to the lines of measurement heretofore made and some of them much beyond those lines, showing conclusively that seal life is not being depleted, but is fully up to the estimate given in my report of 1887.

Mr. Elliott, who is frequently appealed to as a great authority on the subject, affirms that, such is the natural increase of the fur-seal species that these animals, were they not preyed upon by killer-whales (orca gladiator), sharks, and other submarine foes, would multiply to such an extent that "Behring Sea itself could not contain them."

The Honorable Mr. Tupper has shown in his memorandum that the destruction of seals caused by pelagic sealing is insignificant in comparison with that caused by their natural enemies, and he gives figures exhibiting the marvelous increase of seals in spite of the depredations complained of.

Again the destructive nature of the modes of killing seals by spears and fire-arms has apparently been greatly exaggerated as may be seen from the affidavits of practical seal hunters which I annex to this letter, together with a confirmatory extract from a paper upon the "Fur-Seal Fisheries of the Pacific Coast and Alaska," prepared and published in San Francisco and designed for the information of eastern United States Senators and Congressmen.

The Canadian Government estimate the percentage of seals so wounded or killed and not recovered at 6 per cent.

In view of the facts above stated, it is improbable that pending the result of the inquiry, which I have suggested, any appreciable diminution of the fur-seal species should take place, even if the existing conditions of pelagic sealing were to remain unchanged.

But in order to quiet all apprehension on that score, I would propose the following provisional regulations.

I. That pelagic sealing should be prohibited in the Behring Sea, the Sea of Ochotsk, and the adjoining waters, during the months of May and June, and during the months of October, November, and December, which may be termed the "migration periods" of the fur-seal.

II. That all sealing vessels should be prohibited from approaching the breeding islands within a radius of 10 miles.

These regulations would put a stop to the two practices complained of as tending to exterminate the species; firstly, the slaughter of female seals with young during the migration periods, especially in the narrow passes of the Aleutian Islands; secondly, the destruction of female seals by marauders surreptitiously landing on the breeding islands under cover of the dense fogs which almost continuously prevail in that locality during the summer.

Mr. Taylor, another agent of the United States Government asserts that the female seals (called cows) go out from the breeding islands every day for food. The following is an extract from his evidence:

The cows go 10 and 15 miles and even farther. I do not know the average of it—and they are going and coming all the morning and evening. The sea is black with them round about the islands. If there is a little fog and they get out half a mile from shore we can not see a vessel 100 yards even. The vessels themselves lay around the islands there where they pick up a good many seal, and there is where the killing of cows occurs when they go ashore.

Whether the female seals go any distance from the islands in quest of food, and if so, to what distance, are questions in dispute, but pending their solution the regulation which I propose against the approach of sealing vessels within 10 miles of the islands for the prevention of surreptitious landing practically meets Mr. Taylor's complaint, be it well founded or not, to the fullest extent: for, owing to the prevalence of fogs, the risk of capture within a radius of 10 miles will keep vessels off at a much greater distance.

This regulation if accepted by Her Majesty's Government would cer-

tainly manifest a friendly desire on their part to co-operate with your Government and that of Russia in the protection of their rookeries and in the prevention of any violation of the laws applicable thereto. I have the honor to inclose the draught of a preliminary convention which I have prepared, providing for the appointment of a mixed commission who are to report on certain specified questions within two years.

The draught embodies the temporary regulations above described together with other clauses which appear to me necessary to give proper effect to them.

Although I believe that it would be sufficient during the "migration periods" to prevent all sealing within a specified distance from the passes of the Aleutian Islands I have out of a deference to your views and to the wishes of the Russian minister, adopted the fishery line described in Article V, and which was suggested by you at the outset of our negotiation. The draught, of course, contemplates the conclusion of a further convention after full examination of the report of the mixed commission. It also makes provision for the ultimate settlement by arbitration of any differences which the report of the commission may still fail to adjust, whereby the important element of finality is secured, and in order to give to the proposed arrangement the widest international basis, the draught provides that the other powers shall be invited to accede to it.

The above proposals are, of course, submitted *ad referendum*, and it only now remains for me to commend them to your favorable consideration and to that of the Russian minister. They have been framed by me in a spirit of justice and conciliation, and with the most earnest desire to terminate the controversy in a manner honorable to all parties and worthy of the three great nations concerned.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure 1.]

THE NORTH AMERICAN SEAL FISHERY CONVENTION.

TITLE.

Convention between Great Britain, Russia, and the United States of America in relation to the fur-seal fishery in the Behring Sea, the Sea of Ochotsk, and the adjoining waters.

PREAMBLE.

The Governments of Russia and of the United States having represented to the Government of Great Britain the urgency of regulating by means of an international agreement the fur seal fishery in Behring Sea, the Sea of Ochotsk, and the adjoining waters, for the preservation of the fur-seal species in the North Pacific Ocean; and differences of opinion having arisen as to the necessity for the proposed agreement, in consequence whereof the three Governments have resolved to institute a full inquiry into the subject, and, pending the result of such inquiry, to adopt temporary measures for the restriction of the killing of seals during the breeding season, without prejudice to the ultimate decision of the questions in difference in relation to the said fishery.

The said three Governments have appointed as their respective plenipotentiaries, to wit:

Who, after having exchanged their full powers which were found to be in good and due form, have agreed upon the following articles:

ARTICLE I.

MIXED COMMISSION OF EXPERTS TO BE APPOINTED.

The High Contracting Parties agree to appoint a mixed commission of experts who shall inquire fully into the subject and report to the High Contracting Parties within two years from the date of this convention, the result of their investigations together with their opinions and recommendations on the following questions:

(1) Whether regulations properly enforced upon the breeding islands (Robin Island in the Sea of Ochotsk and the Commander Islands and the Pribylov Islands in the Behring Sea) and in the territorial waters surrounding those islands are sufficient for the preservation of the fur-seal species?

(2) If not, how far from the islands is it necessary that such regulations should be enforced in order to preserve the species?

(3) In either of the above cases what should such regulations provide?

(4) If a close season is required on the breeding islands and territorial waters, what months should it embrace?

(5) If a close season is necessary outside of the breeding islands as well, what extent of waters and what period or periods should it embrace?

ARTICLE II.

ON RECEIPT OF REPORT OF COMMISSION QUESTION OF INTERNATIONAL REGULATIONS TO BE FORTHWITH DETERMINED.

On receipt of the report of the Commission and of any separate reports which may be made by individual commissioners, the High Contracting Parties will proceed forthwith to determine what international regulations, if any, are necessary for the purpose aforesaid, and any regulations so agreed upon shall be embodied in a further Convention to which the accession of the other powers shall be invited.

ARTICLE III.

ARBITRATION.

In case the High Contracting Parties should be unable to agree upon the regulations to be adopted, the questions in difference shall be referred to the arbitration of an impartial government, who shall duly consider the reports hereinbefore mentioned, and whose award shall be final and shall determine the conditions of the further Convention.

ARTICLE IV.

PROVISIONAL REGULATIONS.

Pending the report of the Commission and for six months after the date of such report, the High Contracting Parties agree to adopt and put in force as a temporary measure and without prejudice to the ultimate decision of any of the questions in difference in relation to the said fishery, the regulations contained in the next following articles Nos. 5 to 10 inclusive.

ARTICLE V.

SEAL FISHERY LINE.

A line of demarcation to be called the "seal fishery line" shall be drawn as follows:

From Point Aniva at the southern extremity of the Island of Saghalien in the Sea of Ochotsk to the point of intersection of the 50th parallel of north latitude with the 160th meridian of longitude east from Greenwich, thence eastward along the said 50th parallel to its point of intersection with the 160th meridian of longitude west from Greenwich.

ARTICLE VI.

CLOSE TIME.

The subjects and citizens of the High Contracting Parties shall be prohibited from engaging in the fur-seal fishery and the taking of seals by land or sea north of the seal fishery line from the 1st of May to the 30th of June, and also from the 1st of October to the 30th of December.

ARTICLE VII.

PREVENTION OF MARAUDERS.

During the intervening period in order more effectively to prevent the surreptitious landing of marauders on the said breeding islands, vessels engaged in the fur-seal fishery and belonging to the subjects and citizens of the high contracting parties, shall be prohibited from approaching the said islands within a radius of ten miles.

ARTICLE VIII.

FURTHER PROVISIONAL REGULATIONS.

The high contracting parties may, pending the report of the commission, and on its recommendation or otherwise, make such further temporary regulations as may be deemed by them expedient for better carrying out the provisions of this convention and the purposes thereof.

ARTICLE IX.

PENALTY FOR VIOLATION OF PROVISIONAL REGULATIONS.

Every vessel which shall be found engaged in the fur-seal fishery contrary to the prohibitions provided for in articles 6 and 7, or in violation of any regulation made under article 8, shall, together with her apparel, equipment, and contents, be liable to forfeiture and confiscation, and the master and crew of such vessel, and every person belonging thereto, shall be liable to fine and imprisonment.

ARTICLE X.

SEIZURE FOR BREACH OF PROVISIONAL REGULATIONS. TRIAL OF OFFENCES.

Every such offending vessel or person may be seized and detained by the naval or other duly commissioned officers of any of the high contracting parties, but they shall be handed over as soon as practicable

to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offence and impose the penalties for the same. The witnesses and proofs necessary to establish the offence shall also be sent with them and the court adjudicating upon the case may order such portion of the fines imposed or of the proceeds of the condemned vessel to be applied in payment of the expenses occasioned thereby.

ARTICLE XI.

RATIFICATION, COMMENCEMENT AND DURATION OF CONVENTION.

This convention shall be ratified and the ratifications shall be exchanged at ——— in six months from the date thereof or sooner if possible. It shall take effect on such day as shall be agreed upon by the high contracting parties, and shall remain in force until the expiration of six months after the date of the report of the commission of experts to be appointed under Article I; but its duration may be extended by consent.

ARTICLE XII.

ACCESSION OF OTHER POWERS.

The high contracting parties agree to invite the accession of the other powers to the present convention.

[Inclosure 2.]

[Extract from pamphlet entitled "Fur Seal Fisheries of the Pacific Coast and Alaska," published by C. D. Ladd, 529 Kearny street, San Francisco, California.]

It is claimed that many seals are shot that sink and are lost. Undoubtedly there are some lost in this way, but the percentage is light—probably one in thirty or forty, not more than this. It is also claimed that ten are shot and wounded that die to one that is secured. This is also an error. Many seals are shot at that are not hit at all, but when a seal is wounded so that in the end it will die, it is most always secured by the hunter, who may have to shoot at it several times in order to get it, as the seal in the water exposes only its head, and when frightened exposes only a small portion of that, so that together with the constant diving of the seal, the motion of the boat, etc., makes it very hard to hit. This is where it is claimed that ten are shot and wounded to one that is secured; but it is nearer the truth that one is lost to ten that are secured, for the reason that when a seal is wounded it can not remain under water any length of time and therefore the hunter can easily follow it up and secure it.

THOMAS HOWE.

In 1886, on board the *Theresa* and *Pathfinder*, I got for the season 397 seals and lost about 20. In 1887, on the schooner *Penelope*, I got 510 and lost about 30. In 1888, on the *Lily Lad*, I got 316 and lost 12. In 1889, on board the *Vira*, I got 587 and lost 27.

THOMAS HOWE.

FREDERICK GILBERT.

I am a seal hunter. I have been four years on board sealing vessels: one year I was a boat rower and three years a hunter. I have always been with white hunters, and have used the shot-gun and rifle for shooting seals.

In 1887 I got 518 seals and lost 14; in 1888 I got 244 and lost 5; in 1889 I got 454 and lost 16; or in the three years I got 1,216 and lost 35, or 2½ per cent. I never shot or saw pups with the cows in the water, nor have I ever heard of such a case. Some hunters lose a few more than I do, but the most unlucky hunters I have met with did not lose twice as many.

FRED. GILBERT.

VICTORIA, BRITISH COLUMBIA, September 12, 1889.

CAPT. WILLIAM O'LEARY.

I am a master mariner, and have been seal hunting on the Pacific coast four years, three of which I was in Behring's Sea as well. One year I had Indian hunters only, and the three years I had white hunters only—all on the schooner *Pathfinder*. My experience with Indian hunters is that they lose none—at most a few—of the seals they spear. The spears are "bearded," some with one, some with two beards, and once the seal is struck, capture is certain.

White hunters use shot-guns and rifles, according to distance and state of water. On smooth water and at long ranges the rifle is generally used, but the majority of hunters use the shot-gun, and the great majority of seals are shot with guns.

The number of seals lost by white hunters does not exceed six in one hundred, and many hunters lose much less than that number. About half of the seals taken along the coast are cubs, and perhaps two-thirds of the cubs are with young. Putting a vessel's catch at four hundred, and from one hundred and fifty to one hundred and seventy-five might be cubs with young. In Behring's Sea the average of cubs with young killed will not average one in one hundred, for the reason that as soon as the cubs reach the sea they go to the breeding islands, where their young are born.

I never saw cubs in the water with their young with them. I do not think there is any decrease in the number of seal entering Behring's Sea. I never saw so many seal along the coast as there were this year; and in Behring's Sea they were more numerous than I ever saw before. This year I shot forty-four seals and lost one.

WM. O'LEARY.

VICTORIA, BRITISH COLUMBIA, September 12, 1889.

CAPTAIN SIEWARD.

I have been a master sealer for two years. In 1888 I commanded the *Araunah* and in 1889 the *Walter L. Rich*, and during both years sealed along the coast from off Point Northward to Behring's Sea. In 1888 I had Indian hunters and this year white hunters. The Indians lose very few seals, for if the spear strike the seal is got, and if the spear misses the seal of course escapes unhurt. The white hunters use rifles and shot-guns, the latter much more than the former. Rifles are used only by good shots, and then at only long range. The seals lost by white hunters after being shot or wounded do not, on the lower coast, exceed six in one hundred, and on the Alaska coast and in the Behring's Sea not over four in one hundred.

On sailing I generally take ten per cent. additional ammunition for waste shot; that is, if calculating on a catch of 3,000 seals I would take ammunition for 3,300 shots. That was double the excess the hunters would consider necessary and I never knew that percentage of waste shot to be used. I never saw a female seal with her young beside her in the water. Out of catch of 1,423 seals this year I had only 55 seals under two years old, i. e. between one and two years old.

When at Unalakleet this year I learned that the Alaska Commercial Company last year fitted out two small schooners, belonging to private parties, with large deep nets several hundred fathoms long, which were set across the passes from Behring's Sea for the purpose of catching young seals. One of these schooners got 700 of these young seals about four months old, and sold them to the Alaska Commercial Company at \$2.50 apiece.

A schooner, the *Spencer F. Baird*, 10 or 12 tons, was then at Unalakleet fitting up to go to Akoutan Pass for the same purpose this fall. The law forbids the killing of all fur-bearing animals in Alaskan waters by any hunters except the natives, yet such is done every year at Kodiak, Sanaka, and the Aleutian Islands by white hunters, fitted out by the Alaska Commercial Company, under the agreement that the furs must be sold to the company.

H. F. SIEWARD,

Master American Schooner *Walter L. Rich*.

VICTORIA, BRITISH COLUMBIA, August 10, 1889.

GEORGE HOWE.

My first year's sealing, 1886, was on board the *Theresa*, from San Francisco to Victoria. We left San Francisco on the 20th January, and arrived at Victoria on the 7th April. I got 159 seals, of which I lost about 7. I used a shot-gun principally, the rifle only for long range shooting, say from 30 to 60 yards. At Victoria I left the *Theresa* and joined the *Pathfinder*. The *Pathfinder* left Victoria on the 4th of May for Behring's Sea, and that trip I got 442 seals and lost about 20. In 1887 I joined the *Penelope* and left Victoria on the 3d February. I got 618 seals during the season and lost 31. In 1888 I did not go sealing, but in 1889 I was engaged on the schooner *Vica*. We left

Victoria on the 19th January, and I got 734 seals during the season and lost 37. I never saw a young pup alongside its cow in the water.

About one-third of the seals taken on the coast are cows with pup or capable of being with pup. In Behring's Sea I got four cows with pups in them.

GEORGE HOWE.

WILLIAM FEWINGS.

I have been three years hunting seals on the Pacific coast and in Behring's Sea. In 1887 I was on board the sealing schooner *Farouite*, in 1888 on the *Vica*, and in 1889 on board the *Triumph*. In each year the vessel I was on entered the Behring's Sea early in July and left the sea the latter part of August or early in September, except this year, when the *Triumph* left the sea on the 11th July under threat of seizure, after searched by the United States cutter *Rush*. In 1887 the hunters I was with were partly Indians and partly whites. In the two last years the hunters were all whites, using shot guns and rifles. The rifles were used by the more experienced hunters and better shots for long range shooting, up to 100 yards, but few hunters attempted that range. The general range for rifles is not over 50 yards and most shots are made at a less range.

A few hunters used the rifle for all distances. I used either rifle or shot-gun, according to the distance and position of the seal and the condition of the water.

My first year I got about four hundred seals. In getting this number I failed to capture about twenty-five shot at, or killed or wounded, but which escaped. In my second year I got over five hundred, and lost about thirty. This year I got one hundred and forty, and lost only one. I have frequently shot from two to five seal in a bunch, and got them all. One day in 1887 I got two bunches of five each, and another of four, and got the whole fourteen.

Indian hunters use spears, and either get every seal they throw at or it escapes unhurt, or but slightly wounded. Indians, it can be safely said, get every seal they kill.

Oscar Searr, a hunter on the *Vica*, in 1888 got over six hundred seals, and lost only about twenty. The average number lost by white hunters does not exceed six in one hundred, and by the Indian not six in one thousand. I have never shot, nor have I ever seen, a female seal with a young one beside or with her. It is very seldom a female is killed in Behring's Sea carrying her young with her, and out of one thousand killed on the coast earlier in the season less than one-third are females carrying their young.

WM. FEWINGS

VICTORIA, BRITISH COLUMBIA, August 9, 1889.

WALTER HOUSE.

I was a hunter on the schooner *Walter L. Rich* on her sealing voyage this year. It was my first year on the Pacific coast, but I had seven years' experience on the Newfoundland coast catching hair-seals. This year on the *Rich* I got one hundred and eighty-five seals and lost five, which sank before I reached them. I used a shot-gun. The hunters on the *Rich* lost about the same proportion, some a few more, some less. I never saw a cow seal in the water with her young beside her or near her, nor have I ever heard of such a case.

WALTER HOUSE.

VICTORIA, BRITISH COLUMBIA, August 10, 1889.

JAMES WILSON.

I was carpenter on board the sealing schooner *Triumph* on her voyage this year. One of the hunters was drowned just before entering Behring's Sea, and I took his place. I was out hunting seals about a week, but the weather was bad and I got only twenty-three seals. I had had no experience. I used a breech-loading shotgun, and shot seals at a range of from 10 to 15 yards. I lost one seal through the carelessness of the boat hands running the boat over the seal, which sank directly under the boat.

Most of seals lost by hunters are shot at long ranges with the rifles. One hunter on the *Triumph* this year got over sixty seals and only lost one. I never saw a cow seal with her young beside her. Out of the twenty-three I got, five or six were cows carrying their young.

JAMES WILSON.

VICTORIA, BRITISH COLUMBIA, August 9, 1889.

CAPT. J. D. WARREN.

I am a master mariner, and have been actively engaged in the deep-sea sealing business for twenty years. I have owned and commanded sealing vessels on voyages along the Pacific coast from 47 or 48° north latitude to 56 or 57° north latitude within Behring Sea. I have generally employed Indians except in 1886 and 1887, the last years, I was out, when I had white hunters as well. White hunters use rifles and shotguns entirely, Indian hunters use spears. Bullets weighing from 300 to 400 grains are used with rifles, and ordinary buckshot with guns. Both rifles and shotguns are breech-loading and of the best make. Seals are approached by the hunters in boats, to 10 or 15 yards, lying generally asleep on the water. Frequently seals are taken alive when asleep, especially by the Indians, who, in their canoes, get within from a spear's length (14 or 15 feet) to 30 feet before they throw. Indians rarely lose a seal they strike, and if one escapes it is always but slightly wounded. Of seals killed by white hunters, probably not over 10 per cent. are killed with rifle, which is generally used for only a long range.

Sealers divide the seals for hunting purposes into two classes, "sleepers" and "feeders" or "travelers." Sleepers are almost always shot at from 10 to 15 yards range, and are seldom lost. "Feeders" are shot at just as their heads emerge from the water. From this fact the range is always from a few feet to 100 yards, though few are fired at at that distance. Hunters use a "gaff," a pole about 10 or 12 feet long, with one to three hooks upon it, with which they catch the seal and bring it into the boat. If the seal sinks, the "gaff" is run down, and the seal hooked up. The British sealing vessels employ more Indian than white hunters. My experience with white hunters is not so extensive as with Indians, but from what I have seen while engaged in sealing I can say that not over six in every one hundred seals killed by white hunters are lost or escape.

Experienced hunters seldom lose a seal; the losses are chiefly made by inexperienced hunters, only a few of whom are employed, for the reason that as hunters are paid so much a skin, inferior men can not make good wages. I have noticed no diminution in the number of seals during the twenty years I have been in the business, but if any change at all, an increase. Of the seals taken along the coast about one-half are females, and of the females not more than one-half are with young. In Behring Sea not one in one hundred of those taken by the hunters are females with young, because as soon as the females carrying their young get into the sea they go to the breeding islands or rookeries, and in a few days their young are born. The cows remain with their young until they are quite able to take care of themselves. I do not think that out of the seals taken by Indian and white hunters more than 30 per cent. are females actually breeding or capable of breeding.

"Old bulls," "bachelors," "two-year old pups," and "barro cows" make up the great majority. Cows actually breeding are very watchful, and while on the voyage northward are ever on the alert, so they are difficult to take. On the other hand, the other classes above named make up the great class of "sleepers," from which fully 90 per cent. of the whole catch of hunters is derived. I never saw or heard of a "cow" having her young beside her in the water, either on the coast or in Behring Sea.

J. D. WARREN.

VICTORIA, BRITISH COLUMBIA, August 10, 1889.

No. 14.

The Marquis of Salisbury to Sir Julian Pauncefote.

[Left at the Department of State on June 5 by Sir Julian Pauncefote.]

No. 106.]

FOREIGN OFFICE, May 22, 1890.

SIR: I received in due course your dispatch No. 9, of the 23d January, inclosing copy of Mr. Blaine's note of the 22d of that month, in answer to the protest made on behalf of Her Majesty's Government on the 12th October last, against the seizure of Canadian vessels by the United States revenue-cutter *Rush* in Behring Sea.

The importance of the subject necessitated a reference to the Government of Canada, whose reply has only recently reached Her Majesty's Government. The negotiations which have taken place between

Mr. Blaine and yourself afford strong reason to hope that the difficulties attending this question are in a fair way towards an adjustment which will be satisfactory to both Governments. I think it right, however, to place on record, as briefly as possible, the views of Her Majesty's Government on the principal arguments brought forward on behalf of the United States.

Mr. Blaine's note defends the acts complained of by Her Majesty's Government on the following grounds:

1. That "the Canadian vessels arrested and detained in the Behring Sea were engaged in a pursuit that is in itself *contra bonos mores*—a pursuit which of necessity involves a serious and permanent injury to the rights of the Government and people of the United States."

2. That the fisheries had been in the undisturbed possession and under the exclusive control of Russia from their discovery until the cession of Alaska to the United States in 1867, and that from this date onwards until 1886 they had also remained in the undisturbed possession of the United States Government.

3. That it is a fact now held beyond denial or doubt that the taking of seals in the open sea rapidly leads to the extinction of the species, and that therefore nations not possessing the territory upon which seals can increase their numbers by natural growth should refrain from the slaughter of them in the open sea.

Mr. Blaine further argues that the law of the sea and the liberty which it confers do not justify acts which are immoral in themselves, and which inevitably tend to results against the interests and against the welfare of mankind; and he proceeds to justify the forcible resistance of the United States Government by the necessity of defending not only their own traditional and long established rights, but also the rights of good morals and of good government the world over.

He declares that while the United States will not withhold from any nation the privileges which they demanded for themselves, when Alaska was part of the Russian Empire, they are not disposed to exercise in the possessions acquired from Russia any less power or authority than they were willing to concede to the imperial government of Russia when its sovereignty extended over them. He claims from friendly nations a recognition of the same rights and privileges on the lands and in the waters of Alaska which the same friendly nations always conceded to the Empire of Russia.

With regard to the first of these arguments, namely, that the seizure of the Canadian vessels in the Behring's Sea was justified by the fact that they were "engaged in a pursuit that is in itself *contra bonos mores*—a pursuit which of necessity involves a serious and permanent injury to the rights of the Government and people of the United States," it is obvious that two questions are involved: first, whether the pursuit and killing of fur-seals in certain parts of the open sea is, from the point of view of international morality, an offense *contra bonos mores*; and secondly, whether if such be the case, this fact justifies the seizure on the high seas and subsequent confiscation in time of peace of the private vessels of a friendly nation.

It is an axiom of international maritime law that such action is only admissible in the case of piracy or in pursuance of special international agreement. This principle has been universally admitted by jurists, and was very distinctly laid down by President Tyler in his special message to Congress, dated the 27th February, 1843, when, after acknowledging the right to detain and search a vessel on suspicion of piracy, he goes on to say: "With this single exception, no nation has,

in time of peace, any authority to detain the ships of another upon the high seas, on any pretext whatever, outside the territorial jurisdiction."

Now, the pursuit of seals in the open sea, under whatever circumstances, has never hitherto been considered as piracy by any civilized state. Nor, even if the United States had gone so far as to make the killing of fur-seals piracy by their municipal law, would this have justified them in punishing offenses against such law committed by any persons other than their own citizens outside the territorial jurisdiction of the United States.

In the case of the slave trade, a practice which the civilized world has agreed to look upon with abhorrence, the right of arresting the vessels of another country is exercised only by special international agreement, and no one Government has been allowed that general control of morals in this respect which Mr. Blaine claims on behalf of the United States in regard to seal-hunting.

But her Majesty's Government must question whether this pursuit can of itself be regarded as *contra bonos mores*, unless and until, for special reasons, it has been agreed by international arrangement to forbid it. Fur-seals are indisputably animals *feræ naturæ*; and these have universally been regarded by jurists as *res nullius* until they are caught; no person, therefore, can have property in them until he has actually reduced them into possession by capture.

It requires something more than a mere declaration that the Government or citizens of the United States, or even other countries interested in the seal trade, are losers by a certain course of proceeding, to render that course an immoral one.

Her Majesty's Government would deeply regret that the pursuit of fur-seals on the high seas by British vessels should involve even the slightest injury to the people of the United States. If the case be proved, they will be ready to consider what measures can be properly taken for the remedy of such injury, but they would be unable on that ground to depart from a principle on which free commerce on the high seas depends.

The second argument advanced by Mr. Blaine is that the "fur-seal fisheries of Behring Sea had been exclusively controlled by the Government of Russia, without interference and without question, from their original discovery until the cession of Alaska to the United States in 1867," and that "from 1867 to 1886 the possession, in which Russia had been undisputed, was enjoyed by the United States Government also without interruption or intrusion from any source."

I will deal with these two periods separately.

First, as to the alleged exclusive monopoly of Russia. After Russia, at the instance of the Russian-American Fur Company, claimed in 1821 the pursuits of commerce, whaling, and fishing from Behring Straits to the 51st degree of north latitude, and not only prohibited all foreign vessels from landing on the coasts and islands of the above waters, but also prevented them from approaching within 100 miles thereof, Mr. Quincy Adams wrote as follows to the United States minister in Russia:

The United States can admit no part of these claims; their right of navigation and fishing is perfect, and has been in constant exercise from the earliest times throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions.

That the right of fishing thus asserted included the right of killing fur-bearing animals is shown by the case of the United States brig *Loriot*. That vessel proceeded to the waters over which Russia claimed

exclusive jurisdiction for the purpose of hunting the sea-otter, the killing of which is now prohibited by the United States statutes applicable to the fur-seal, and was forced to abandon her voyage and leave the waters in question by an armed vessel of the Russian navy. Mr. Forsyth, writing on the case to the American minister at St. Petersburg on the 4th of May, 1837, said:

It is a violation of the rights of the citizens of the United States, immemorially exercised and secured to them as well by the law of nations as by the stipulations of the first article of the convention of 1824, to fish in those seas, and to resort to the coast for the prosecution of their lawful commerce upon points not already occupied.

From the speech of Mr. Sumner when introducing the question of the purchase of Alaska to Congress, it is equally clear that the United States Government did not regard themselves as purchasing a monopoly. Having dealt with fur-bearing animals, he went on to treat of fisheries, and after alluding to the presence of different species of whales in the vicinity of the Aleutians said: "No sea is now *mare clausum*; all of these may be pursued by a ship under any flag, except directly on the coast or within its territorial limit."

I now come to the statement that from 1867 to 1886 the possession was enjoyed by the United States with no interruption and no intrusion from any source. Her Majesty's Government can not but think that Mr. Blaine has been misinformed as to the history of the operations in Behring Sea during that period.

The instances recorded in Inclosure 1 in this dispatch are sufficient to prove from official United States sources that from 1867 to 1886 British vessels were engaged at intervals in the fur-seal fisheries with the cognizance of the United States Government. I will here by way of example quote but one.

In 1872 Collector Phelps reported the fitting out of expeditions in Australia and Victoria for the purpose of taking seals in Behring Sea, while passing to and from their rookeries on St. Paul and St. George Islands, and recommended that a steam-cutter should be sent to the region of Oumimak Pass and the islands of St. Paul and St. George.

Mr. Secretary Boutwell informed him, in reply, that he did not consider it expedient to send a cutter to interfere with the operations of foreigners, and stated: "In addition, I do not see that the United States would have the jurisdiction or power to drive off parties going up there for that purpose, unless they made such attempt within a marine league of the shore."

Before leaving this part of Mr. Blaine's argument, I would allude to his remark that "vessels from other nations passing from time to time through Behring's Sea to the Arctic Ocean in pursuit of whales have always abstained from taking part in the capture of seals," which he holds to be proof of the recognition of rights held and exercised first by Russia and then by the United States.

Even if the facts are as stated, it is not remarkable that vessels pushing on for the short season in which whales can be captured in the Arctic Ocean, and being fitted specially for the whale fisheries, neglected to carry boats and hunters for fur-seals or to engage in an entirely different pursuit.

The whalers, moreover, pass through Behring Sea for the fishing grounds in the Arctic Ocean in April and May as soon as the ice breaks up, while the great bulk of the seals do not reach the Pribylov Islands till June, leaving again by the time the closing of the ice compels the whalers to return.

The statement that it is "a fact now held beyond denial or doubt that the taking of seals in the open sea rapidly leads to their extinction" would admit of reply, and abundant evidence could be adduced on the other side. But as it is proposed that this part of the question should be examined by a committee to be appointed by the two Governments, it is not necessary that I should deal with it here.

Her Majesty's Government do not deny that if all sealing were stopped in Behring Sea except on the islands in possession of the lessees of the United States, the seal may increase and multiply at an even more extraordinary rate than at present, and the seal fishery on the island may become a monopoly of increasing value; but they can not admit that this is sufficient ground to justify the United States in forcibly depriving other nations of any share in this industry in waters which, by the recognized law of nations, are now free to all the world.

It is from no disrespect that I refrain from replying specifically to the subsidiary questions and arguments put forward by Mr. Blaine. Till the views of the two Governments as to the obligations attaching, on grounds either of morality or necessity, to the United States Government in this matter, have been brought into closer harmony, such a course would appear needlessly to extend a controversy which Her Majesty's Government are anxious to keep within reasonable limits.

The negotiations now being carried on at Washington prove the readiness of Her Majesty's Government to consider whether any special international agreement is necessary for the protection of the fur-sealing industry. In its absence they are unable to admit that the case put forward on behalf of the United States affords any sufficient justification for the forcible action already taken by them against peaceable subjects of Her Majesty engaged in lawful operations on the high seas.

"The President," says Mr. Blaine, "is persuaded that all friendly nations will concede to the United States the same rights and privileges on the lands and in the waters of Alaska which the same friendly nations always conceded to the Empire of Russia."

Her Majesty's Government have no difficulty in making such a concession. In strict accord with the views which, previous to the present controversy, were consistently and successfully maintained by the United States, they have, whenever occasion arose, opposed all claims to exclusive privileges in the non-territorial waters of Behring Sea. The rights they have demanded have been those of free navigation and fishing in waters which, previous to their own acquisition of Alaska, the United States declared to be free and open to all foreign vessels.

That is the extent of their present contention and they trust that, on consideration of the arguments now presented to them, the United States will recognize its justice and moderation.

I have to request that you will read this dispatch to Mr. Blaine and leave a copy of it with him should he desire it.

I am, etc.,

SALISBURY.

[Inclosure.]

In 1870 Collector Phelps reported "the barque *Cyane* has arrived at this port (San Francisco) from Alaska, having on board 47 seal skins." (See Ex. Doc. No. 83, Forty-fourth Congress, first session.)

In 1872 he reported expeditions fitting out in Australia and Victoria for the purpose of taking seals in Behring Sea, and was informed that it was not expedient to interfere with them.

In 1874 Acting Secretary Sawyer, writing to Mr. Elliott, special agent, said:

"It having been officially reported to this Department by the collector of customs at Port Townsend, from Neenah Bay, that British vessels from Victoria cross over into American waters and engage in taking fur seals (which he represents are annually becoming more numerous on our immediate coast) to the great injury of our sealers, both white and Indian, you will give such proper attention to the examination of the subject as its importance may seem to you, after careful inquiry, to demand, and with a view to a report to the Department of all facts ascertained." (Ditto, May 4, No. 117, p. 114.)

In 1875, Mr. McIntyre, Treasury agent, described how "before proceeding to harsh measures" he had warned the captain of the *Cygnets*, who was shooting seals in Zapadne Bay, and stated that the captain appeared astonished that he was breaking the law. (Ditto, March 15, 1875, No. 140, p. 124.)

In 1880, the fur-seal trade of the British Columbia coast was of great importance. Seven vessels were then engaged in the fishery, of which the greater number were, in 1886 and 1887, seized by the United States Government in Behring Sea.

In 1884, Daniel and Alexander McLean, both British subjects, took the American schooner *San Diego* to Behring Sea, and were so successful that they returned there in 1885, from Victoria, with the *Mary Ellen* and the *Farouite*.

No. 15.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, May 23, 1890.

SIR: I have the honor to inform you that a statement having appeared in the newspapers to the effect that the United States revenue cruisers have received orders to proceed to Behring Sea for the purpose of preventing the exercise of the seal fishery by foreign vessels in non-territorial waters, and that statement having been confirmed yesterday by you, I am instructed by the Marquis of Salisbury to state to you that a formal protest by Her Majesty's Government against any such interference with British vessels will be forwarded to you without delay.

I have, etc.,

JULIAN PAUNCEFOTE.

No. 16.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,

Washington, May 26, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, in which you inform me that Her Britannic Majesty's Government will formally protest against certain action recently taken by this Government for the protection of the Alaskan seal fisheries.

I have, etc.,

JAMES G. BLAINE.

H. Ex. 450—5

No. 17.

Mr. Blaine to Sir Julian Pauncefote

DEPARTMENT OF STATE,

Washington, May 29, 1890.

SIR: Your note of the 23d instant, already acknowledged, informs this Government that you "have been instructed by the Marquis of Salisbury to state that Her Majesty's Government would forward without delay a protest" against the course which this Government has found it necessary, under the laws of Congress, to pursue in the waters of the Behring Sea.

In turn, I am instructed by the President to protest against the course of the British Government in authorizing, encouraging, and protecting vessels which are not only interfering with American rights in the Behring Sea, but which are doing violence as well to the rights of the civilized world. They are engaged in a warfare against seal life, disregarding all the regulations which lead to its protection and committing acts which lead ultimately to its destruction, as has been the case in every part of the world where the abuses which are now claimed as British rights have been practiced.

The President is surprised that such protest should be authorized by Lord Salisbury, especially because the previous declarations of his lordship would seem to render it impossible. On the 11th day of November, 1887, Lord Salisbury, in an official interview with the minister from the United States (Mr. Phelps), cordially agreed that "a code of regulations should be adopted for the preservation of the seals in Behring Sea from destruction at improper times, by improper means, by the citizens of either country." And Lord Salisbury suggested that Mr. Phelps "should obtain from his Government and submit to him (Lord Salisbury) a sketch of a system of regulations which would be adequate for the purpose." Further interviews were held during the following month of February (1888) between Lord Salisbury and the American minister, and between Lord Salisbury and the American minister accompanied by the Russian ambassador. In answer to Lord Salisbury's request Mr. Phelps submitted the "regulations" which the Government of the United States desired; and in a dispatch of February 25 Mr. Phelps communicated the following to Mr. Bayard, Secretary of State:

Lord Salisbury assents to your proposition, to establish by mutual arrangement between the governments interested, a close time for fur seals, between April 15 and November 1, and between 160 degrees of longitude west and 170 degrees of longitude east in the Behring Sea. And he will cause an act to be introduced into Parliament to give effect to this arrangement so soon as it can be prepared. In his opinion there is no doubt that the act will be passed.

He will also join the United States Government in any preventive measures it may be thought best to adopt, by orders issued to the naval vessels of the respective governments in that region.

Early in April (1888) the Russian ambassador, Mr. de Staal, advised the American chargé "that the Russian Government would like to have the regulations which might be agreed upon for the Behring Sea extended to that portion of the latter in which the Commander Islands are situated, and also to the Sea of Okhotsk, in which Robben Island is situated."

On the 16th of April, at Lord Salisbury's invitation, the Russian ambassador and Mr. White, the American chargé (Mr. Phelps being absent from London) met at the foreign office "for the purpose of discussing

with Lord Salisbury the details of the proposed conventional arrangement for the protection of seals in Behring Sea."

"With a view to meeting the Russian Government's wishes respecting the waters surrounding Robben Island, his lordship suggested that beside the whole of Behring Sea those portions of the Sea of Okhotsk and of the Pacific Ocean north of north latitude 47, should be included in the proposed arrangement. His lordship intimated furthermore, that the period proposed by the United States for a close time, from April 15 to November 1, might interfere with the trade longer than absolutely necessary for the protection of seals, and he suggested October 1, instead of a month later, as the termination of the period of seal protection." Furthermore, Lord Salisbury "promised to have a draft convention prepared for submission to the Russian ambassador and the American minister."

On the 23d of April the American chargé was informed by Lord Salisbury that "it is now proposed to give effect to a seal convention by order in council, not by act of Parliament." It was understood that this course was proposed by Lord Salisbury in order that the regulations needed in Behring Sea might be promptly applied.

You will observe, then, that from the 11th of November, 1887, to the 23d of April, 1888, Lord Salisbury had in every form of speech assented to the necessity of a close season for the protection of the seals.

The shortest period which he named was from the 15th of April to the 1st of October—five and one-half months. In addition, his lordship suggested that the closed sea for the period named should include the whole of the Behring Sea and should also include such portion of the Sea of Okhotsk as would be necessary to protect the Russian seal fishery on Robben Island: that the closed season be extended as far south as the 47th degree of north latitude—120 miles south of the northern boundary of the United States on the Pacific Ocean. He promised further to draft a convention upon the subject between England, Russia, and the United States.

These assurances were given to the American minister, to the American chargé, to the Russian ambassador, and on more than one occasion to two of them together. The United States had no reason, therefore, to doubt that the whole dispute touching the seal fisheries was practically settled. Indeed to have distrusted it would have been to question the good faith of Lord Salisbury. In diplomatic intercourse between Great Britain and the United States, be it said to the honor of both governments, a verbal assurance from a minister has always been equal to his written pledge. Speaking the same language, there has been no room for misunderstanding between the representatives of the two governments, as may easily happen between those of different tongues. For a period of six months, therefore, without retraction or qualification, without the suggestion of a doubt or the dropping of a hint, the understanding between the two governments, on the assurance of Lord Salisbury, was as complete as language could make it.

On the 28th of April, five days after Lord Salisbury's last pointed assurance, five days after he had proposed to perfect the scheme, not by the delay of Parliament, but by the promptness of an order in council, the American chargé was informed that the act of Parliament would be necessary in addition to the order in council, and that neither act nor order could be drafted "until Canada is heard from."

For several weeks following April 28th, there were many calls by the American chargé at the foreign office to learn whether "Canada had been heard from." He called alone and called in company with the Rus-

sian ambassador. Finally, on the 20th of June, Lord Salisbury told him that an urgent telegram had been "sent to Canada a week ago with respect to the delay in its expedition," and that a reply had been "received by the secretary of state for the colonies, saying that the matter will be taken up immediately." Mr. White, relying entirely upon these assurances, ventured to "hope that shortly after Mr. Phelps' return the British Government will be in a condition to agree upon the terms of the proposed convention."

Mr. Phelps returned to London on the 22d of June, two days after Mr. White's interview with Lord Salisbury, and immediately after the urgent telegram had been sent to Canada. On the 28th of July Mr. Phelps had received no assurances from Lord Salisbury, and telegraphed the department of state his "fear that owing to Canadian opposition we shall get no convention." In a dispatch to his Government of the 12th of September, he related having had interviews with Lord Salisbury respecting the convention, which, he says, had been "virtually agreed upon, except in its details." Mr. Phelps goes on to say :

The consideration of it has been suspended for communication by the British Government with the Canadian government, for which purpose an interval of several months had been allowed to elapse. During this long interval the attention of Lord Salisbury had been repeatedly called to the subject by the American legation, and on those occasions the answer received from him was that no reply from the Canadian authorities had arrived.

Mr. Phelps proceeds in the dispatch of September 12 to say :

I again pressed Lord Salisbury for the completion of the convention, as the extermination of seals by the Canadian vessels was understood to be rapidly proceeding. His lordship, in reply, did not question the propriety or the importance of taking measures to prevent the wanton destruction of so a valuable industry, in which, as he remarked, England had a large interest of its own; but his lordship stated that the Canadian government objected to any such restrictions, and that until its consent could be obtained Her Majesty's Government was not willing to enter into the convention.

It was thus finally acknowledged that the negotiation into which Lord Salisbury had cordially entered, and to which he had readily agreed, even himself suggesting some of its most valuable details, was entirely subordinated to the judgment and desire of the Canadian government. This Government can not but feel that Lord Salisbury would have dealt more frankly if, in the beginning, he had informed Minister Phelps that no arrangement could be made unless Canada concurred in it, and that all negotiation with the British Government direct was but a loss of time.

When you, Mr. minister, arrived in this country a year ago, there seemed the best prospect for a settlement of this question, but the Russian minister and the American Secretary of State have had the experiences of Mr. Phelps and the Russian ambassador in London repeated. In our early interviews there seemed to be as ready a disposition on your part to come to a reasonable and friendly adjustment as there has always been on our part to offer one. You will not forget an interview between yourself, the Russian minister, and myself, in which the lines for a close season in the Behring Sea laid down by Lord Salisbury were almost exactly repeated by yourself, and were inscribed on maps which were before us, a copy of which is in the possession of the Russian minister, and a copy also in my possession. A prompt adjustment seemed practicable—an adjustment which I am sure would have been honorable to all the countries interested. No obstacles were presented on the American side of the question. No insistence was made upon

the Behring Sea as *mare clausum*; no objection was interposed to the entrance of British ships at all times on all commercial errands through all the waters of the Behring Sea. But our negotiations, as in London, were suddenly broken off for many weeks by the interposition of Canada. When correspondence was resumed on the last day of April, you made an offer for a mixed commission of experts to decide the questions at issue.

Your proposition is that pelagic sealing should be prohibited in the Behring Sea during the months of May, June, October, November, and December, and that there should be no prohibition during the months of July, August, and September. Your proposition involved the condition that British vessels should be allowed to kill seals within 10 miles of the coast of the Pribylov Islands. Lord Salisbury's proposition of 1888 was that during the same months, for which the 10-mile privilege is now demanded, no British vessel hunting seals should come nearer to the Pribylov Islands than the 47th parallel of north latitude, about 600 miles.

The open season which you thus select for killing is the one when the areas around the breeding islands are most crowded with seals, and especially crowded with female seals going forth to secure food for the hundreds of thousands of their young of which they have recently been delivered. The destruction of the females which, according to expert testimony, would be 95 per cent. of all which the sealing vessels might readily capture, would inflict deadly loss upon the rookeries. The destruction of the females would be followed by the destruction of their young on the islands, and the herds would be diminished the next year by this wholesale slaughter of the producing females and their offspring.

The 10-mile limit would give the marauders the vantage ground for killing the seals that are in the water by tens of thousands searching for food. The opportunity, under cover of fog and night, for stealing silently upon the islands and slaughtering the seals within a mile or even less of the keeper's residence, would largely increase the aggregate destruction. Under such conditions the British vessels could evenly divide with the United States, within the 3-mile limit of its own shores and upon the islands themselves, the whole advantage of the seal fisheries. The respect which the sealing vessels would pay to the 10-mile limit would be the same that wolves pay to a flock of sheep so placed that no shepherd can guard them. This arrangement, according to your proposal, was to continue for three months of each year, the best months in the season for depredations upon the seal herd. No course was left to the United States or to Russia but to reject the proposition.

The propositions made by Lord Salisbury in 1888 and the propositions made by Her Majesty's minister in Washington in 1890 are in significant contrast. The circumstances are the same, the conditions are the same, the rights of the United States are the same in both years. The position of England has changed, because the wishes of Canada have demanded the change. The result then with which the United States is expected to be content is that her rights within the Behring Sea and on the islands thereof are not absolute, but are to be determined by one of Her Majesty's provinces.

The British Government would assuredly and rightfully complain if an agreement between her representative and the representative of the United States should, without notice, be broken off by the United States on the ground that the State of California was not willing that it should be completed. California has a governor chosen independently of t

executive power of the National Government; Canada has a governor appointed by the British Crown. The legislature of California enacts laws with which the executive power of the United States has no right whatever to interfere; Canada enacts laws with which the executive power of Great Britain can interfere so far as absolutely to annul. Can the Government of the United States be expected to accept as final a decision of the Government of Great Britain that an agreement with the United States can not be fulfilled because the province of Canada objects?

This review of the circumstances which led to the present troubles on the Behring Sea question, has been presented by direction of the President in order to show that the responsibility does not rest with this Government. The change of policy made by Her Majesty's Government without notice and against the wish of this Government, is in the President's belief the cause of all the differences that have followed. I am further instructed by the President to say that while your proposals of April 30 can not be accepted, the United States will continue the negotiation in hope of reaching an agreement that may conduce to a good understanding and leave no cause for future dispute. In the President's opinion, owing to delays for which this Government is not responsible, it is too late to conclude such negotiation in time to apply its result the present season. He therefore proposes that Her Majesty's Government agree not to permit the vessels (which in his judgment do injury to the property of the United States) to enter the Behring Sea for this season, in order that time may be secured for negotiation that shall not be disturbed by untoward events or unduly influenced by popular agitation. If this offer be accepted, the President believes that before another season shall open, the friendly relations existing between the two countries and the mutual desire to continue them, will lead to treaty stipulations which shall be permanent, because just and honorable to all parties.

I have, etc.,

JAMES G. BLAINE.

No. 18.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, June 2, 1890.

MY DEAR SIR JULIAN: I have had a prolonged interview with the President on the matters upon which we are endeavoring to come to an agreement touching the fur-seal question. The President expresses the opinion that an arbitration can not be concluded in time for this season. Arbitration is of little value unless conducted with the most careful deliberation. What the President most anxiously desires to know is whether Lord Salisbury, in order to promote a friendly solution of the question, will make for a single season the regulation which in 1888 he offered to make permanent. The President regards that as the step which will lead most certainly and most promptly to a friendly agreement between the two Governments.]

I have, etc.,

JAMES G. BLAINE.

No. 19.

Sir Julian Panncefote to Mr. Blaine.

BRITISH LEGATION,

Washington, D. C., June 3, 1890.

DEAR MR. BLAINE: In reply to your letter of yesterday evening, touching the fur-seal question, I beg to state that I am in a position to answer at once the inquiry "Whether Lord Salisbury, in order to promote a friendly solution of the question, will make for a single season the regulation which in 1888 he offered to make permanent."

The words which I quote from your letter have reference no doubt to the proposal of the United States that British sealing vessels should be entirely excluded from the Behring Sea during the seal fishery season. I shall not attempt to discuss here whether what took place in the course of the abortive negotiations of 1888 amounted to an offer on the part of Lord Salisbury "to make such a regulation permanent."

It will suffice for the present purpose to state that the further examination of the question which has taken place has satisfied His Lordship that such an extreme measure as that proposed in 1888 goes far beyond the requirements of the case.

Her Majesty's Government are quite willing to adopt all measures which shall be satisfactorily proved to be necessary for the preservation of the fur-seal species, and to enforce such measures on British subjects by proper legislation. But they are not prepared to agree to such a regulation as is suggested in your letter for the present fishery season, as, apart from other considerations, there would be no legal power to enforce its observance on British subjects and British vessels.

I have, etc.,

JULIAN PANNECFOTE.

No. 20.

Mr. Blaine to Sir Julian Panncefote.

DEPARTMENT OF STATE,

Washington, June 4, 1890.

SIR: I have your favor of the 2d instant. The President sincerely regrets that his considerate and most friendly proposal for adjustment of all troubles connected with the Behring Sea should be so promptly rejected. The paragraph in your note in which you refer to Lord Salisbury's position needs explanation. I quote it in full:

It will suffice for the present purpose to state that the further examination of the question which has taken place has satisfied His Lordship that such an extreme measure as that proposed in 1888 goes far beyond the requirements of the case.

I do not know what may have been the "examination of the question" that "has satisfied Lord Salisbury that such an extreme measure as that proposed in 1888 goes far beyond the requirements of the case." I only know that the most extreme measure proposed came from Lord Salisbury himself in suggesting a close season as far south as the forty-seventh parallel of latitude, to last from April 15 to October 1 in each year.

At the close of his negotiations with Mr. Phelps in September, 1888, His Lordship, still approving the "measures to prevent the wanton

destruction of so valuable an industry," declared, apparently with regret, that "the Canadian Government objected to any such restrictions" (*i. e.*, as those which His Lordship had in part proposed and wholly approved), and that "until its consent would be obtained Her Majesty's Government was not willing to enter into the convention." It is evident, therefore, that in 1888 Lord Salisbury abruptly closed the negotiations because in his own phrase "the Canadian Government objected." He assigned no other reason whatever, and until your note of the 2d was received this Government had never been informed that His Lordship entertained any other objections than those expressed in September, 1888.

It is proper to recall to your recollection that at divers times in personal conversation I have proposed to you, on behalf of this Government, a close season, materially shorter, in point of time, than was voluntarily offered by Lord Salisbury and much less extended in point of space. Instead of going as far south as the forty-seventh parallel I have frequently indicated the willingness of this Government to take the dividing line between the Pacific Ocean and the Behring Sea—the line which is tangent to the southernmost island of the Aleutian group—being as near as may be the fiftieth parallel of north latitude.

Early in April you will remember that you suggested to me the advantage that might follow if the sailing of the revenue cutters for Behring Sea could be postponed till the middle of May. Though that was a matter entirely under the control of the Treasury Department, Secretary Windom promptly complied with your request, and by the President's direction a still longer postponement was ordered in the hope that some form of equitable adjustment might be proposed by Her Majesty's Government. Even the revenue cutter, which annually passes through Behring Sea carrying supplies to the relief station at Point Barrow in the Arctic Ocean—seventy-second degree of North latitude—was held back lest her appearance in Behring Sea might be misrepresented as a non-observance of the understanding between us.

It is perfectly clear that if your claim for British vessels to kill seals within 10 miles of the Pribylov Islands, directly after the mothers are delivered of their young, should be granted, the Behring Sea would swarm with vessels engaged in sealing—not forty or fifty, as now, but many hundreds, through the summer months. If that privilege should be given to Canadian vessels, it must, of course, be conceded at once to American vessels. If the rookeries are to be thrown open to Canadians, they would certainly, as matter of common right, be thrown open to citizens of the United States. The seal mothers, which require an area of from 40 to 50 miles from the islands, on all sides, to secure food for their young, would be slaughtered by hundreds of thousands, and in a brief space of time there would be no seals in the Behring Sea. Similar causes have uniformly produced similar effects. Seal rookeries in all parts of the world have been destroyed in that way. The present course of Great Britain will produce the same effect on the only seal rookery of any value left in the waters of the oceans and seas of the globe. The United States have leased the privilege of sealing because only in that way can the rookeries be preserved, and only in that way can this Government derive a revenue from the Pribylov Islands. Great Britain would perhaps gain something for a few years, but it would be at the expense of destroying a valuable interest belonging to a friendly nation—an interest which the civilized world desires to have preserved.

I observe that you quote Treasury Agent George R. Tingle in your dispatch of April 30 as showing that, notwithstanding the depredations

of marauders, the total number of seals had increased in the Behring Sea. The rude mode of estimating the total number can readily lead to mistakes; and other agents have differed from Mr. Tingle. But aside from the correctness or incorrectness of Mr. Tingle's conclusions on that point, may I ask upon what grounds do the Canadian vessels assert a claim, unless they assume that they have a title to the increase of the seal herd? If the claim of the United States to the seals of the Pribylov islands be well founded, we are certainly entitled to the increase as much as a sheep-grower is entitled to the increase of his flock.

Having introduced Mr. Tingle, who has very extensive knowledge touching the seals in Behring Sea, as well as the habits of the Canadian marauders, I trust you will not discredit his testimony. The following statement made by Mr. Tingle in his official report to the Treasury Department at the close of the season of 1887 is respectfully commended to your consideration:

I am now convinced from what I gather in questioning the men belonging to captured schooners and from reading the logs of the vessels, that not more than one seal in ten killed and mortally wounded is landed on the boats and skinned; thus you will see the want of destruction of seal life without any benefit whatever. I think 30,000 skins taken this year is a low estimate on this basis; 300,000 fur-seals were killed to secure that number, or three times as many as the Alaska Commercial Company are allowed by law to kill. You can readily see that this great slaughter of seals will, in a few years, make it impossible for 100,000 skins to be taken on the islands by the lessees. I earnestly hope more rigorous measures will be adopted by the Government in dealing with these destructive law-breakers.

Both of Mr. Tingle's statements are made in his official capacity, and in both cases he had no temptation to state anything except what he honestly believed to be the truth.

The President does not conceal his disappointment that even for the sake of securing an impartial arbitration of the question at issue, Her Majesty's Government is not willing to suspend, for a single season, the practice which Lord Salisbury described in 1888 as "the wanton destruction of a valuable industry," and which this Government has uniformly regarded as an unprovoked invasion of its established rights.

I have, etc.,

JAMES G. BLAINE.

No. 21.

Sir Julian Pannecote to Mr. Blaine.

WASHINGTON, June 6, 1890.

SIR: I have the honor to acknowledge the receipt of your official note of the 4th instant, commenting upon the reply which I returned to the inquiry contained in your letter of the 2d instant, whether the Marquis of Salisbury would, in order to promote a friendly solution of the fur-seal question, agree to the total exclusion of British sealers from the Behring Sea during the present fishery season. You express the regret of the President that "his considerate and most friendly proposal for the adjustment of all trouble connected with the Behring Sea should be so promptly rejected."

I have this day transmitted a copy of your note to Lord Salisbury, and pending further instructions I will abstain from pursuing the discussion on the various points with which it deals, especially as the

views of Her Majesty's Government on the main questions involved are stated with great precision in Lord Salisbury's dispatch of the 22d of May, which I had the honor to read to you yesterday, and of which, in accordance with your desire, I left a copy in your hands. I would only observe that as regards the sufficiency or insufficiency of the radius of ten miles around the rookeries "within which Her Majesty's Government proposed that sealers should be excluded" no opportunity was afforded me of discussing the question before the proposals of Her Majesty's Government were summarily rejected.

I may mention, also, that I fear there has been some misapprehension as regards a request which you appear to have understood me to make respecting the date of the sailing of United States revenue-cutters for Behring Sea. I have no recollection of having made any suggestion with reference to those revenue-cutters, except that their commanders should receive explicit instructions not to apply the municipal law of the United States to British vessels in Behring Sea outside of territorial waters.

I have, etc.,

JULIAN PAUNCEFOTE.

No. 22.

Sir Julian Pauncefote to Mr. Blaine.

[Extract from telegram from the Marquis of Salisbury.]

(Received June 9, 1890.)

Lord Salisbury regrets that the President of the United States should think him wanting in conciliation, but his lordship can not refrain from thinking that the President does not appreciate the difficulty arising from the law of England.

It is entirely beyond the power of Her Majesty's Government to exclude British or Canadian ships from any portion of the high seas, even for an hour, without legislative sanction. Her Majesty's Government have always been willing, without pledging themselves to details on the questions of area and date, to carry on negotiations, hoping thereby to come to some arrangement for such a close season as is necessary in order to preserve the seal species from extinction, but the provisions of such an arrangement would always require legislative sanction so that the measures thereby determined may be enforced.

Lord Salisbury does not recognize the expressions attributed to him. He does not think that he can have used them, at all events, in the context mentioned.

No. 23.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, June 11, 1890.

SIR: I have shown to the President the extract from the telegram of Lord Salisbury of June 9, in which his lordship states that "it is beyond the power of Her Majesty's Government to exclude British or

Canadian ships from any portion of the high seas, even for an hour, without legislative sanction."

Not stopping to comment upon the fact that his lordship assumes the waters surrounding the Pribylov Islands to be the "high seas," the President instructs me to say that it would satisfy this Government if Lord Salisbury would by public proclamation simply request that vessels sailing under the British flag should abstain from entering the Behring Sea for the present season. If this request shall be complied with, there will be full time for impartial negotiations, and, as the President hopes, for a friendly conclusion of the differences between the two Governments.

I have, etc.,

JAMES G. BLAINE.

No. 24.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, June 11, 1890.

SIR: I have the honor to acknowledge your note of this day with reference to the passage in a telegram from the Marquis of Salisbury, which I communicated to you at our interview of the 9th instant, to the effect that "it is beyond the power of Her Majesty's Government to exclude British or Canadian ships from any portion of the high seas, even for an hour without legislative action."

You inform me that without commenting on the fact that his lordship assumes the waters surrounding the Pribylov Islands to be the high seas, the President instructs you to say that it would satisfy your Government if Lord Salisbury would by public proclamation simply request that vessels sailing under the British flag should abstain from entering the Behring Sea for the present season. You add, if this request shall be complied with, there will be full time for impartial negotiations, and, as the President hopes, for a friendly conclusion of the differences between the two Governments.

I have telegraphed the above communication to Lord Salisbury, and I await his lordship's instructions thereon. In the meanwhile I take this opportunity of informing you that I reported to his lordship, by telegraph, that at the same interview I again pressed you for an assurance that British sealing vessels would not be interfered with in the Behring Sea by United States revenue cruisers while the negotiations continued, but you replied that you could not give such assurance. I trust this is not a final decision, and that in the course of the next few days, while there is yet time to communicate with the commanders, instructions will be sent to them to abstain from such interference.

It is in that hope that I have delayed delivering the formal protest of Her Majesty's Government announced in my note of the 23d of May.

I have, etc.,

JULIAN PAUNCEFOTE.

No. 25.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, June 14, 1890.

SIR: With reference to the note which I had the honor to address to you on the 11th instant, I desire to express my deep regret at having failed up to the present time to obtain from you the assurance, which I had hoped to receive, that during the continuance of our negotiations for the settlement of the fur-seal fishery question British sealing vessels would not be interfered with by United States revenue cruisers in the Behring Sea outside of territorial waters.

Having learned from statements in the public press and from other sources that the revenue cruisers *Rush* and *Corwin* are now about to be dispatched to the Behring Sea, I can not, consistently with the instructions I have received from my Government, defer any longer the communication of their formal protest announced in my notes of the 23d ultimo and the 11th instant against any such interference with British vessels.

I have accordingly the honor to transmit the same herewith.

I have, etc.

JULIAN PAUNCEFOTE.

Enclosure.*Protest.*

(Received June 14, 12.35, 1890.)

The undersigned, Her Britannic Majesty's envoy extraordinary and minister plenipotentiary to the United States of America, has the honor, by instruction of his Government, to make to the Hon. James G. Blaine, Secretary of State of the United States, the following communication:

Her Britannic Majesty's Government have learned with great concern from notices which have appeared in the press, and the general accuracy of which has been confirmed by Mr. Blaine's statements to the undersigned, that the Government of the United States have issued instructions to their revenue cruisers about to be despatched to Behring Sea, under which the vessels of British subjects will again be exposed, in the prosecution of their legitimate industry on the high seas, to unlawful interference at the hands of American officers.

Her Britannic Majesty's Government are anxious to co-operate to the fullest extent of their power with the Government of the United States in such measures as may be found to be expedient for the protection of the seal fisheries. They are at the present moment engaged in examining, in concert with the Government of the United States, the best method of arriving at an agreement upon this point. But they can not admit the right of the United States of their own sole motion to restrict for this purpose the freedom of navigation of Behring Sea, which the United States have themselves in former years convincingly and successfully vindicated, nor to enforce their municipal legislation against British vessels on the high seas beyond the limits of their territorial jurisdiction.

Her Britannic Majesty's Government are therefore unable to pass over without notice the public announcement of an intention on the

part of the Government of the United States to renew the acts of interference with British vessels navigating outside the territorial waters of the United States, of which they have previously have to complain.

The undersigned is in consequence instructed formally to protest against such interference, and to declare that Her Britannic Majesty's Government must hold the Government of the United States responsible for the consequences that may ensue from acts which are contrary to the established principles of international law.

The undersigned, etc.,

JULIAN PAUNCEFOTE

JUNE 14, 1890.

No. 26.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, June 27, 1890.

SIR: I did not fail to transmit to the Marquis of Salisbury a copy of your note of the 11th instant, in which, with reference to his lordship's statement that British legislation would be necessary to enable Her Majesty's Government to exclude British vessels from any portion of the high seas "even for an hour," you informed me, by desire of the President, that the United States Government would be satisfied "if Lord Salisbury would by public proclamation simply request that vessels sailing under the British flag should abstain from entering the Behring Sea during the present season."

I have now the honor to inform you that I have been instructed by Lord Salisbury to state to you in reply that the President's request presents constitutional difficulties which would preclude Her Majesty's Government from acceding to it, except as part of a general scheme for the settlement of the Behring Sea controversy, and on certain conditions which would justify the assumption by Her Majesty's Government of the grave responsibility involved in the proposal.

Those conditions are:

I. That the two Governments agree forthwith to refer to arbitration the question of the legality of the action of the United States Government in seizing or otherwise interfering with British vessels engaged in the Behring Sea, outside of territorial waters, during the years 1886, 1887, and 1889.

II. That, pending the award, all interference with British sealing vessels shall absolutely cease.

III. That the United States Government, if the award should be adverse to them on the question of legal right, will compensate British subjects for the losses which they may sustain by reason of their compliance with the British proclamation.

Such are the three conditions on which it is indispensable, in the view of Her Majesty's Government, that the issue of the proposed proclamation should be based.

As regards the compensation claimed by Her Majesty's Government for the losses and injuries sustained by British subjects by reason of the action of the United States Government against British sealing vessels in the Behring Sea during the years 1886, 1887, and 1889, I have already informed Lord Salisbury of your assurance that the United States Government would not let that claim stand in the way of an amicable ad-

justment of the controversy, and I trust that the reply which, by direction of Lord Salisbury, I have now the honor to return to the President's inquiry, may facilitate the attainment of that object for which we have so long and so earnestly labored.

I have, etc.,

JULIAN PAUNCEFOTE.

No. 27.

Mr. Blaine to Sir Julian Poncefote.

DEPARTMENT OF STATE,

Washington, June 30, 1890.

SIR: On the 5th instant you read to me a dispatch from Lord Salisbury dated May 22, and by his instruction you left with me a copy. His Lordship writes in answer to my dispatch of the 22d January last. At that time, writing to yourself touching the current contention between the Governments of the United States and Great Britain as to the jurisdiction of the former over the waters of the Behring Sea, I made the following statement:

The Government of the United States has no occasion and no desire to withdraw or modify the positions which it has at any time maintained against the claims of the Imperial Government of Russia. The United States will not withhold from any nation the privileges which it demanded for itself when Alaska was part of the Russian Empire. Nor is the Government of the United States disposed to exercise any less power or authority than it was willing to concede to the Imperial Government of Russia when its sovereignty extended over the territory in question. The President is persuaded that all friendly nations will concede to the United States the same rights and privileges on the lands and in the waters of Alaska which the same friendly nations always conceded to the Empire of Russia.

In answer to this declaration Lord Salisbury contends that Mr. John Quincy Adams, when Secretary of State under President Monroe, protested against the jurisdiction which Russia claimed over the waters of Behring Sea. To maintain this position his lordship cites the words of a dispatch of Mr. Adams, written on July 23, 1823, to Mr. Henry Middleton, at that time our minister at St. Petersburg. The alleged declarations and admissions of Mr. Adams in that dispatch have been the basis of all the arguments which Her Majesty's Government has submitted against the ownership of certain properties in the Behring Sea which the Government of the United States confidently assumes. I quote the portion of Lord Salisbury's argument which includes the quotation from Mr. Adams:

After Russia, at the instance of the Russian-American Fur Company, claimed in 1821 the pursuits of commerce, whaling, and fishing from Behring's Straits to the 51st degree of north latitude, and not only prohibited all foreign vessels from landing on the coasts and islands of the above waters, but also prevented them from approaching within 100 miles thereof, Mr. Quincy Adams wrote as follows to the United States minister in Russia:

"The United States can admit no part of these claims; their right of navigation and fishing is perfect, and has been in constant exercise from the earliest times throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions."

The quotation which Lord Salisbury makes is unfortunately a most defective, erroneous, and misleading one. The conclusion is separated from the premise, a comma is turned into a period, an important qualification as to time is entirely erased without even a suggestion that it

had ever formed part of the text, and out of eighty-four words, logically and inseparably connected, thirty-five are dropped from Mr. Adams' paragraph in Lord Salisbury's quotation. No edition of Mr. Adams' work gives authority for his lordship's quotation; while the archives of this Department plainly disclose its many errors. I requote Lord Salisbury's version of what Mr. Adams said, and in juxtaposition produce Mr. Adams's full text as he wrote it:

[Lord Salisbury's quotation from Mr. Adams

The United States can admit no part of these claims: their right of navigation and fishing is perfect, and has been in constant exercise from the earliest times throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions

Full text of Mr. Adams' paragraph.

The United States can admit no part of these claims. Their right of navigation and of fishing is perfect, and has been in constant exercise from the earliest times, after the peace of 1783, throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions, which so far as Russian rights are concerned, are confined to certain islands north of the fifty-fifth degree of latitude, and have no existence on the continent of America.

The words in italics are those which are left out of Mr. Adams' paragraph in the dispatch of Lord Salisbury. They are precisely the words upon which the Government of the United States founds its argument in this case. Conclusions or inferences resting upon the paragraph, with the material parts of Mr. Adams' text omitted, are of course valueless.

The first object is to ascertain the true meaning of Mr. Adams' words which were omitted by Lord Salisbury. "Russian rights," said Mr. Adams, "are confined to certain islands north of the 55th degree of latitude." The islands referred to are as easily recognized to-day as when Mr. Adams described their situation sixty-seven years ago. The best known among them, both under Russian and American jurisdiction, are Sitka and Kadiak; but their whole number is great. If Mr. Adams literally intended to confine Russian rights to those islands, all the discoveries of Vitus Behring and other great navigators are brushed away by one sweep of his pen, and a large chapter of history is but a fable.

But Mr. Adams goes still farther. He declares that "Russian rights have no existence on the continent of America." If we take the words of Mr. Adams with their literal meaning, there was no such thing as "Russian Possessions in America," although forty-four years after Mr. Adams wrote these words, the United States paid Russia seven millions two hundred thousand dollars for these "Possessions" and all the rights of land and sea connected therewith.

This construction of Mr. Adams' language can not be the true one. It would be absurd on its face. The title to that far northern territory was secure to Russia as early as 1741; secure to her against the claims of all other nations; secure to her thirty-seven years before Captain Cook had sailed into the North Pacific; secure to her more than half a century before the United States had made good her title to Oregon. Russia was in point of time the first power in this region by right of discovery. Without immoderate presumption she might have challenged the rights of others to assumed territorial possessions; but no nation had shadow of cause or right to challenge her title to the vast region of land and water which, before Mr. Adams was Secretary of State, had become known as the "Russian Possessions."

Mr. Adams' meaning was not, therefore, and indeed could not be, what Lord Salisbury assumed. As against such interpretation I shall endeavor to call his lordship's attention to what this Government holds to be the indisputable meaning of Mr. Adams' entire paragraph. To that end a brief review of certain public transactions and a brief record of certain facts will be necessary.

At the close of the year 1799, the Emperor Paul, by a ukase, asserted the exclusive authority of Russia over the territory from the Behring Strait down to the fifty-fifth degree of north latitude on the American coast, following westward "by the Aleutian, Kurile, and other islands" practically inclosing the Behring Sea. To the Russian American Company, which was organized under this ukase, the Emperor gave the right "to make new discoveries" in that almost unknown region, and "to occupy the new land discovered" as "Russian possessions." The Emperor was assassinated before any new discoveries were announced, but his successor, the Emperor Alexander I, inherited the ambition and the purpose of his father, and, in a new ukase of September 4, 1821, asserted the exclusive authority of Russia from Behring Strait southward to the fifty-first degree of north latitude on the American coast, proclaiming his authority, at the same time, on the Asiatic coast as far south as the forty-fifth degree, and forbidding any vessel to approach within 100 miles of land on either continent. I quote the two sections of the ukase that contain the order and the punishment:

SECTION 1. The transaction of commerce, and the pursuit of whaling and fishing, or any other industry on the islands, in the harbors and inlets, and, in general, all along the northwestern coast of America from Behring Strait to the fifty-first parallel of northern latitude, and likewise on the Aleutian Islands and along the eastern coast of Siberia, and on the Kurile Islands; that is, from Behring Strait to the southern promontory of the island of Urip, viz, as far south as latitude forty-five degrees and fifty minutes north, are exclusively reserved to subjects of the Russian Empire.

SEC. 2. Accordingly, no foreign vessel shall be allowed either to put to shore at any of the coasts and islands under Russian dominion as specified in the preceding section, or even to approach the same to within a distance of less than 100 Italian miles. Any vessel contravening this provision shall be subject to confiscation with her whole cargo.

Against *this larger claim of authority* (viz, extending farther south on the American coast to the 51st degree of north latitude), Mr. Adams vigorously protested. In a dispatch of March 30, 1822, to Mr. Poletica, the Russian minister at Washington, Mr. Adams said:

This ukase now for the first time extends the claim of Russia on the northwest coast of America to the 51st degree of north latitude.

And he pointed out to the Russian minister that the only foundation for the new pretension of Russia was the existence of a small settlement, situated, not on the American continent, but on a small island in latitude 57—Novo Archangelsk, now known as Sitka.

Mr. Adams protested, not against the ukase of Paul, but against the ukase of Alexander; not wholly against the ukase of Alexander, but only against his extended claim of sovereignty southward on the continent to the 51st degree north latitude. In short, Mr. Adams protested, not against the old possessions, but against the new pretensions of Russia on the northwest coast of America—pretensions to territory claimed by the United States and frequented by her mariners since the peace of 1783—a specification of time which is dropped from Lord Salisbury's quotation of Mr. Adams, but which Mr. Adams pointedly used to fix the date when the power of the United States was visibly exercised on the coast of the Pacific Ocean.

The names and phrases at that time in use to describe the geography

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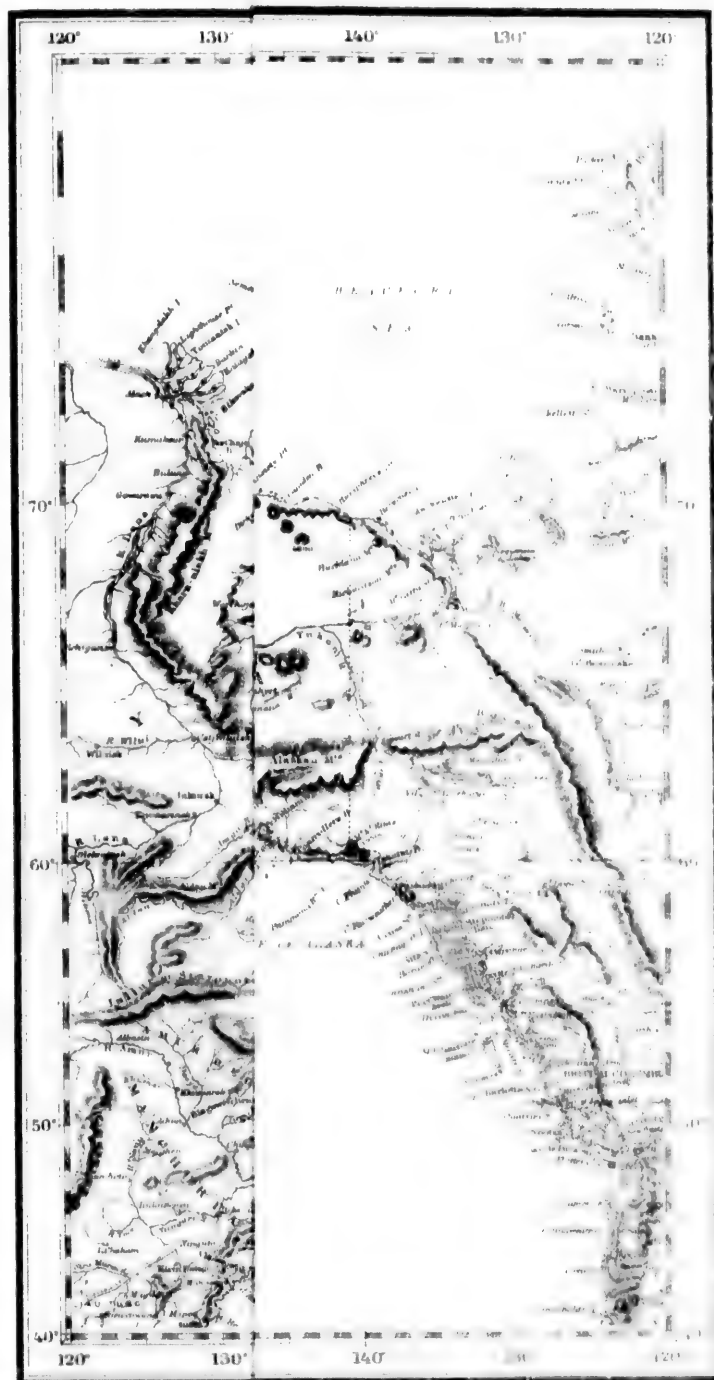
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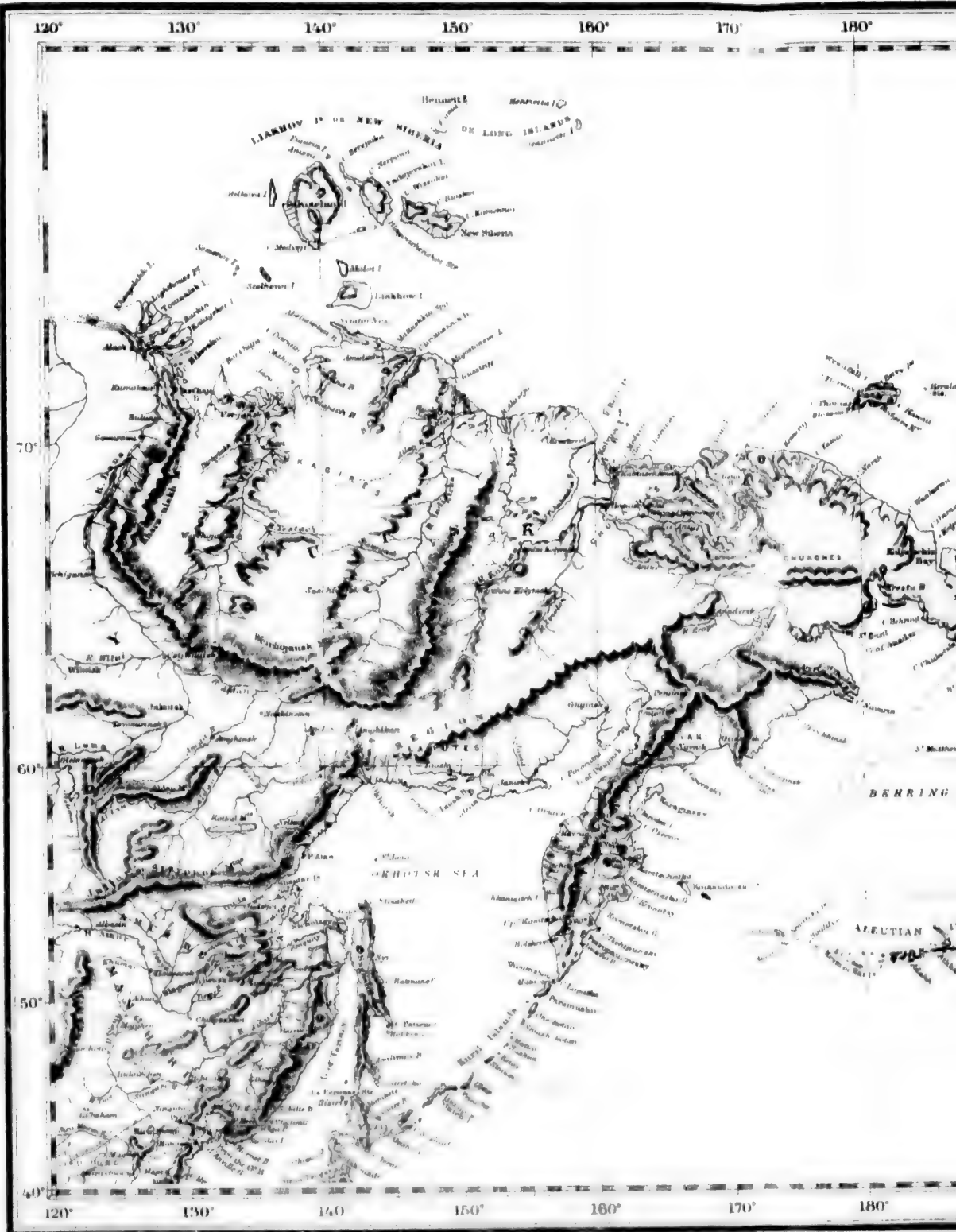
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OF JUNE 30th, 1890 (Mr. BLAINE to Sir JULIAN PAUNCEFOTE).
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included within the area of this dispute, are confusing and at certain points apparently contradictory and irreconcilable. Mr. Adams' denial to Russia of the ownership of territory on "the Continent of America" is a fair illustration of this singular contradiction of names and places. In the same way the phrase "Northwest coast" will be found, beyond all possible doubt, to have been used in two senses, one including the northwest coast of the Russian possessions, and one to describe the coast whose northern limit is the 60th parallel of north latitude.

It is very plain that Mr. Adams' phrase "the Continent of America," in his reference to Russia's possessions, was used in a *territorial* sense, and not in a *geographical* sense. He was drawing the distinction between the territory of "America" and the territory of the "Russian possessions." Mr. Adams did not intend to assert that these territorial rights of Russia had no existence on the continent of North America. He meant that they did not exist as the ukase of the Emperor Alexander had attempted to establish them—southward of the Aleutian peninsula and on that distinctive part of the continent claimed as the territory of the United States. "America" and the "United States" were then, as they are now, commonly used as synonymous.

British statesmen at the time used the phrase precisely as Mr. Adams did. The possessions of the crown were generically termed British *America*. Great Britain and the United States harmonized at this point and on this territorial issue against Russia. Whatever disputes might be left by these negotiations for subsequent settlement between the two powers there can be no doubt that at that time they had a common and very strong interest against the territorial aggrandizement of Russia. The British use of the phrase is clearly seen in the treaty between Great Britain and Russia, negotiated in 1825, and referred to at length in a subsequent portion of this dispatch. A publicist as eminent as Stratford Canning opened the third article of that treaty in these descriptive words:

The line of demarcation between the possessions of the high contracting parties, upon the coast of the continent, and the islands of America to the northwest.

Mr. Canning evidently distinguished "the islands of America" from the "islands of the Russian possessions," which were far more numerous; and by the use of the phrase "*to the Northwest*" just as evidently limited the coast of the *Continent* as Mr. Adams limited it, in that direction, by the Alaskan peninsula. A concurrence of opinion between John Quincy Adams and Stratford Canning, touching any public question, left little room even for suggestion by a third person.

It will be observed as having weighty significance that the Russian ownership of the Aleutian and Kurile Islands (which border and close in the Behring Sea, and by the dip of the peninsula are several degrees south of latitude 55) was not disputed by Mr. Adams, and could not possibly have been referred to by him when he was limiting the island possessions of Russia. This is but another evidence that Mr. Adams was making no question as to Russia's ownership of all territory bordering on the Behring Sea. The contest pertained wholly to the territory on the northwest coast. The Emperor Paul's ukase, declaring his sovereignty over the Aleutian and Kurile Islands, was never questioned or denied by any power at any time.

Many of the acts of Mr. Adams' public life received interesting commentary and, where there was doubt, luminous interpretation in his personal diary, which was carefully kept from June 3, 1794, to January 1, 1848, inclusive. The present case affords a happy illustration of the

corroborative strength of the diary. During the progress of this correspondence Baron Tuxill, who had succeeded Mr. Poletica as Russian minister in Washington, called upon Mr. Adams at his office on July 17, 1823, six days before the date of the dispatch upon which I have been commenting, and upon which Lord Salisbury relies for sustaining his contention in regard to the Behring Sea. During an animated conversation of an hour or more between Mr. Adams and Baron Tuxill, the former said:

I told Baron Tuxill specially that we should contest the right of Russia to *any* territorial establishment on this continent.

It will be observed that Mr. Adams uses the same phrase in his conversation that has misled English statesmen as to the true scope and meaning of his dispatch of July 23, 1823. When he declared that we should "contest the right of Russia to any territorial establishment on this continent" (with the word "any" italicized), he no more meant that we should attempt to drive Russia from her ancient possessions than that we should attempt to drive England from the ownership of Canada or Nova Scotia. Such talk would have been absurd gasconade, and Mr. Adams was the last man to indulge in it. His true meaning, it will be seen, comes out in the next sentence when he declares:

I told Baron Tuxill that we should assume distinctly the principle that the American continents are no longer subjects for any *new* European colonial establishments.

In the message of President Monroe to the next Congress (the 18th) at its first session, December 2, 1823, he announced that at the proposal of the Russian Government the United States had agreed to "arrange by amicable negotiations the respective rights and interests of the two nations on the northwest coast of this continent." A similar proposal had been made by Russia to Great Britain and had been likewise agreed to. The negotiations in both cases were to be at St. Petersburg.

It was in connection with this subject, and in the same paragraph, that President Monroe spoke thus:

In the discussions to which this interest has given rise, and in the arrangements by which they may terminate, the occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that *the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European power.*

This very brief declaration (in fact merely the three lines italicized), constitutes the famous "Monroe doctrine." Mr. Adams' words of the July preceding clearly foreshadowed this position as the permanent policy of the United States. The declaration removes the last doubt, if room for doubt had been left, that the reference made by Mr. Adams was to the future, and had no possible connection with the Russian rights existing for three quarters of a century before the dispatch of 1823 was written.

It was evident from the first that the determined attitude of the United States, subsequently supported by Great Britain, would prevent the extension of Russian territory southward to the 51st parallel. The treaties which were the result of the meeting at St. Petersburg, already noted, marked the surrender on the part of Russia of this pretension and the conclusion was a joint agreement that 54 degrees and 40 minutes should be taken as the extreme southern boundary of Russia on the northwest coast, instead of the 55th degree, which was proclaimed by the Emperor Paul in the ukase of 1799.

The treaty between Russia and the United States was concluded on the 17th of April, 1824, and that between Russia and Great Britain, ten

months later, on the 16th of February, 1825. In both treaties Russia acknowledges 54.40 as the dividing line. It was not determined which of the two nations owned the territory from 54.40 down to the 49th parallel, and it remained in dispute between Great Britain and the United States until its final adjustment by the "Oregon treaty," negotiated by Mr. Buchanan and Mr. Pakenham under the administration of Mr. Polk in 1846.

The Government of the United States has steadily maintained that in neither of these treaties with Russia was there any attempt at regulating or controlling, or even asserting an interest in, the Russian Possessions and the Behring Sea, which lie far to the north and west of the territory which formed the basis of the contention. This conclusion is indisputably proved by the protocols which were signed during the progress of the negotiation. At the fourth conference of the plenipotentiaries, on the 8th day of March (1824), the American minister, Mr. Henry Middleton, submitted to the Russian representative, Count Nesselrode, the following:

The dominion can not be acquired but by a real occupation and possession, and an intention (animus) to establish it is by no means sufficient.

Now, it is clear, according to the facts established, that neither Russia nor any other European power has the right of dominion upon the continent of America between the fiftieth and sixtieth degrees of north latitude.

Still less has she the dominion of the adjacent maritime territory, or of the sea which washes these coasts, a dominion which is only necessary to the territorial dominion.

Therefore she has not the right of exclusion or of admission on these coasts, nor in these seas which are free seas.

The right of navigating all the free seas belongs, by natural law, to every independent nation, and even constitutes an essential part of this independence.

The United States have exercised navigation in the seas, and commerce upon the coasts above mentioned, from the time of their independence; and they have a perfect right to this navigation and to this commerce, and they can only be deprived of it by their own act or by a convention.

This is a clear proof of what is demonstrated in other ways, that the whole dispute between the United States and Russia and between Great Britain and Russia related to the Northwest coast, as Mr. Middleton expresses it, between the "50th and the 60th degrees of north latitude." This statement is in perfect harmony with Mr. Adams' paragraph when given in full. "The United States," Mr. Middleton insists, "have exercised navigation in the seas and commerce upon the coasts above mentioned, from the time of their independence;" but he does not say one word in regard to our possessing any rights of navigation or commerce in the Behring Sea. He declares that "Russia has not the right of exclusion or admission on these coasts [between the 50th and 60th degrees north latitude] nor in these seas which are *free* seas," evidently emphasizing "free" to distinguish those seas from the Behring Sea, which was recognized as being under Russian restrictions.

Mr. Middleton wisely and conclusively maintained that if Russia had no claim to the continent between the 50th and the 60th degrees north latitude; "still less could she have the dominion of the adjacent maritime territory," or, to make it more specific, "of the sea which washes these coasts." That sea was the Great Ocean, or the Pacific Ocean, or the South Sea, the three names being equally used for the same thing.

The language of Mr. Middleton plainly shows that the lines of latitude were used simply to indicate the "dominion" on the coast between the 50th and 60th parallels of north latitude.

The important declarations of Mr. Middleton, which interpret and enforce the contention of the United States, should be regarded as in-



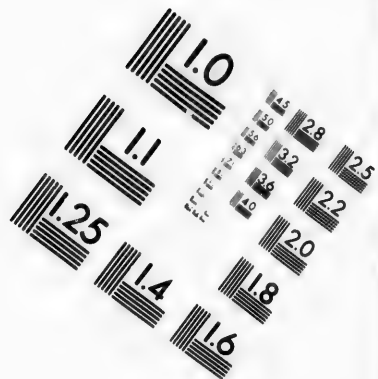
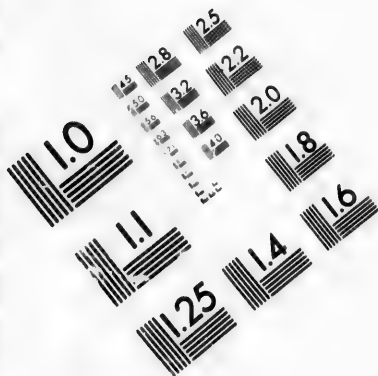
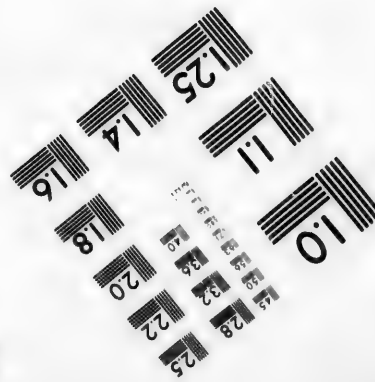
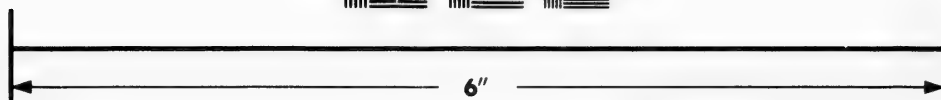
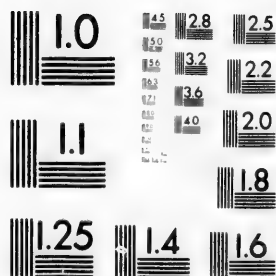


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disputable authority, from the fact that they are but a paraphrase of the instructions which Mr. Adams delivered to him for his guidance in negotiating the treaty with Count Nesselrode. Beyond all doubt they prove that Mr. Adams' meaning was the reverse of what Lord Salisbury infers it to be in the paragraph of which he quoted only a part.

The four principal articles of the treaty negotiated by Mr. Middleton are as follows :

ART. I. It is agreed that, in any part of the Great Ocean, commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the high contracting powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles :

ART. II. With a view of preventing the rights of navigation and of fishing exercised upon the Great Ocean by the citizens and subjects of the high contracting powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the governor or commander ; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the Northwest coast.

ART. III. It is moreover agreed that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the Northwest coast of America, nor in any of the islands adjacent, to the north of fifty-four degrees and forty minutes of north latitude ; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel.

ART. IV. It is, nevertheless, understood that during a term of ten years, counting from the signature of the present convention, the ships of both powers, or which belong to their citizens or subjects, respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks, upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country.

The first article, by carefully mentioning the *Great Ocean* and describing it as the ocean "commonly called the Pacific Ocean or South Sea," evidently meant to distinguish it from some other body of water with which the negotiators did not wish to confuse it. Mr. Adams used the term "South Sea" in the dispatch quoted by Lord Salisbury, and used it with the same discriminating knowledge that pervades his whole argument on this question. If no other body of water existed within the possible scope of the treaty, such particularity of description would have had no logical meaning. But there was another body of water already known as the Behring Sea. That name was first given to it in 1817—according to English authority—seven years before the American treaty, and eight years before the British treaty, with Russia ; but it had been known as a *sea*, separate from the ocean, under the names of the Sea of Kamcharka, the Sea of Otters, or the Aleutian Sea, at different periods before the Emperor Paul issued his ukase of 1799.

The second article plainly shows that the treaty is limited to the Great Ocean, as separate from the Behring Sea, because the limitation of the "Northwest coast" between the 50th and 60th degrees could apply to no other. That coast, as defined both by American and British negotiators at that time, did not border on the Behring Sea.

The third article shows the compromise as to territorial sovereignty on the Northwest coast. The United States and Great Britain had both claimed that Russia's just boundary on the coast terminated at the 60th degree north latitude, the southern border of the Aleutian peninsula. Russia claimed to the 51st parallel. They made a compromise by a nearly equal division. An exactly equal division would have given Russia 54.30 ; but 10 miles farther north Prince of Wales' Island presented a better geographical point for division, and Russia accepted.

a little less than half the coast of which she had claimed all and 54.40 was thus established as the dividing point.

The fourth article of the treaty necessarily grew out of the claims of Russia to a share of the Northwest coast in dispute between the United States and Great Britain. Mr. Adams, in the instruction to Mr. Middleton so often referred to, says:

By the third article of the convention between the United States and Great Britain, of the 20th of October, 1818, it was agreed that any country that might be claimed by either party on the Northwest coast of America, westward of the Stony Mountains, should, together with its harbor, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from that date, to the vessels, citizens, and subjects of the two powers, without prejudice to the claims of either party or of any other state.

You are authorized to propose an article of the same import for a term of ten years from the signature of a joint convention between the United States, Great Britain, and Russia.

It will be observed that the fourth article relates solely to the "Northwest coast of America" so well understood as the coast of the Pacific Ocean, between the 50th and the 60th degrees north latitude, and therefore does not in the remotest degree touch the Behring Sea or the land bordering upon it.

The several articles in the treaty between Great Britain and Russia, February 16, 1825, that could have any bearing on the pending contention are as follows:

Articles I and II (substantially the same as in the treaty between Russia and the United States).

ARTICLE III. The line of demarcation between the possessions of the high contracting parties, upon the coast of the continent, and the islands of America to the Northwest shall be drawn in the manner following:

Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in the parallel of 54 degrees 40 minutes north latitude, and between the one hundred and thirty-first and the one hundred and thirty-third degree of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called *Portland Channel*, as far as the point of the continent where it strikes the fifty-sixth degree of north latitude; from this last mentioned point the line of demarcation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the one hundred and forty-first degree of west longitude (of the same meridian); and, finally, from the said point of intersection the said meridian line of the one hundred and forty-first degree in its prolongation as far as the frozen ocean shall form the limit between the Russian and British possessions on the continent of America to the northwest.

Article V. (Substantially the same as Article III of the treaty between Russia and the United States.)

ARTICLE VI. It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean or from the interior of the continent, shall forever enjoy the right of navigating freely and without any hindrance whatever all the rivers and streams which, in their course towards the Pacific Ocean, may cross the line of demarcation upon the line of coast described in Article III of the present convention.

ARTICLE VII. It is also understood that, for the space of ten years from the signature of the present convention, the vessels of the two powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent without any hindrance whatever all the inland seas, the gulfs, havens, and creeks on the coast mentioned in Article III, for the purposes of fishing and of trading with the natives.

After the analysis of the articles in the American treaty there is little in the English treaty that requires explanation. The two treaties were draughted under circumstances and fitted to conditions quite similar. There were some differences because of Great Britain's ownership of British America. But these very differences corroborate the position of the United States. This is most plainly seen in Article VI. By that

article the subjects of Her Britannic Majesty were guaranteed the right of navigating freely the rivers emptying into the Pacific Ocean and crossing the *line of demarcation upon the line of coast described in Article III*. The line of demarcation is described in Article III as following "the summit of the mountains situated parallel to the coast as far as the point of intersection of the one hundred and forty-first degree of west longitude." Article IV, qualifying Article III, specifies that "wherever the summit of the mountains which extend in a direction parallel to the coast, from the fifty-sixth degree of north latitude to the point of intersection of the one hundred and forty-first degree of west longitude, shall prove to be at a distance of more than ten marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia, as above mentioned, shall be formed by a line parallel to the windings of the coast, and shall never exceed the distance of ten marine leagues therefrom."

By both these articles the line of demarcation ceases to have any parallel relation to the coast when it reaches the point of intersection of the one hundred and forty-first degree of west longitude.

From that point the one hundred and forty-first degree of west longitude, as far as it extends continuously on land northward, is taken as the boundary between the territories of the two powers. It is thus evident that British subjects were guaranteed the right of navigating only such rivers as crossed the line of demarcation *while it followed the line of coast*. They were limited, therefore, to the rivers that emptied into the Pacific Ocean between 54:40 and 60 degrees north latitude, the latter being the point on the coast opposite the point where the line of demarcation diverges—Mount St. Elias.

By this agreement Great Britain was excluded from all rivers emptying into the Behring Sea, including the great Yukon and its affluent, the Porcupine, which rise and for a long distance flow in British America. So complete was the exclusion from Behring Sea that Great Britain surrendered in this case a doctrine which she had aided in impressing upon the Congress of Vienna for European rivers. She did not demand access to the sea from a river whose source was in her territory. She consented, by signing the treaty of 1825, to such total exclusion from the Behring Sea as to forego following her own river to its mouth in that sea.

It shows a curious association of political events that in the Washington treaty of 1871 the United States conceded to Great Britain the privilege of navigating the Yukon and its branch, the Porcupine, to the Behring Sea in exchange for certain privileges conceded to the United States on the St. Lawrence. The request of Great Britain for the privilege of navigating the Yukon and Porcupine is a suggestive confession that it was withheld from her by Russia in the treaty of 1825;—withheld because the rivers flowed to the Behring Sea.

The seventh article is practically a repetition of the fourth article in the treaty between Russia and the United States, and the privilege of fishing and trading with the natives is limited to the coast, mentioned in Article III, identically the same line of coast which they were at liberty to pass through to reach British America or to reach the coast from British America. They are excluded from going north of the prescribed point on the coast near Mount St. Elias, and are therefore kept out of Behring Sea.

It is to be noted that the negotiators of this treaty, in defining the boundary between the Russian and British possessions, cease to observe particularity exactly at the point on the coast where it is intersected by

the sixtieth parallel. From that point the boundary is designated by the almost indefinite prolongation northward of the one hundred and forty-first degree of longitude west. It is plain, therefore, that this treaty, like the Russo-American treaty, limited the "northwest coast" to that part of the coast between the fiftieth and sixtieth parallels of north latitude,—as fully set forth by Mr. Middleton in the protocols preceding the treaty between the United States and Russia. The negotiators never touched one foot of the boundary of the Behring Sea, whether on continent or island, and never even made a reference to it. Its nearest point, in Bristol Bay, was a thousand miles distant from the field of negotiation between the powers.

It must not be forgotten that this entire negotiation of the three powers proceeded with full knowledge and recognition of the ukase of 1821. While all questions touching the respective rights of the powers on the northwest coast between the fiftieth and sixtieth parallels were discussed and pressed by one side or the other, and finally agreed upon, the terms of the ukase of 1821, in which the Emperor set forth so clearly the rights claimed and exercised by Russia in the Behring Sea, were untouched and unquestioned. These rights were therefore admitted by all the powers negotiating as within the exercise of Russia's lawful authority then, and they were left inviolate by England during all the subsequent continuance of Russia's dominion over Alaska.

These treaties were therefore a practical renunciation, both on the part of England and the United States, of any rights in the waters of Behring Sea during the period of Russia's sovereignty. They left the Behring Sea and all its coasts and islands precisely as the ukase of Alexander in 1821 left them,—that is with a prohibition against any vessel approaching nearer to the coast than 100 Italian miles, under danger of confiscation. The original ukase of Alexander (1821) claimed as far south as the fifty-first degree of north latitude, with the inhibition of 100 miles from the coast applying to the whole.

The result of the protest of Mr. Adams, followed by the co-operation of Great Britain, was to force Russia back to 54.40 as her southern boundary. But there was no renunciation whatever on the part of Russia as to the Behring Sea, to which the ukase especially and primarily applied. As a piece of legislation this ukase was as authoritative in the dominions of Russia as an act of Parliament is in the dominions of Great Britain or an act of Congress in the territory of the United States. Except as voluntarily modified by Russia in the treaty with the United States, April 17, 1824, and in the treaty with Great Britain, February 16, 1825, the ukase of 1821 stood as the law controlling the Russian possessions in America until the close of Russia's ownership by transfer to this Government. Both the United States and Great Britain recognized it, respected it, obeyed it. It did not, as so many suppose, declare the Behring Sea to be *mare clausum*. It did declare that the waters, to the extent of 100 miles from the shores, were reserved for the subjects of the Russian Empire. Of course many hundred miles east and west and north and south, were thus intentionally left by Russia for the whale fishery and for fishing open and free to the world, of which other nations took large advantage. Perhaps in pursuing this advantage foreigners did not always keep 100 miles from the shore, but the theory of right on which they conducted their business unmolested was that they observed the conditions of the ukase.

But the 100-mile restriction performed the function for which it was specially designed in preventing foreign nations from molesting, disturbing, or by any possibility sharing in the fur trade. The fur trade formed

the principal, almost the sole employment of the Russian American Company. It formed its employment, indeed, to such a degree that it soon became known only as the Russian American *Fur* Company, and quite suggestively that name is given to the company by Lord Salisbury in the dispatch to which I am replying. While, therefore, there may have been a large amount of lawful whaling and fishing in the Behring Sea, the taking of furs by foreigners was always and under all circumstances illicit.

Eighteen years after the treaty of 1825 (in 1843) Great Britain made a commercial treaty with Russia, based on the principle of reciprocity of advantages, but the rights of the Russian American Company, which under both cases included the sovereignty over the sea to the extent of 100 miles from the shores, were reserved by special clause, in a separate and special article, signed after the principal articles of the treaty had been concluded and signed. Although British rights were enlarged with nearly all other parts of the Russian Empire, her relations with the Russian possessions and with the Behring Sea remained at precisely the same point where the treaty of 1825 had placed them.

Again in 1859 Great Britain still further enlarged her commercial relations with the Empire of Russia, and again the "possessions" and the Behring Sea were held firmly in their relations to the Russian American Company as they had been held in the treaty of 1843.

It is especially notable that both in the treaty of 1843 and the treaty of 1859 it is declared that "in regard to commerce and navigation in the Russian possessions on the northwest coast of America the convention concluded at St. Petersburg, February 16, 1825, shall continue in force." The same distinction and the same restrictions which Mr. Adams made in regard to the northwest coast of America were still observed, and Great Britain's access from or to the interior of the continent was still limited to that part of the coast between 54.40 and a point near Mount Saint Elias. The language of the three Russo British treaties of 1825, 1843, and 1859 corresponds with that employed in Mr. Adams' dispatch to Mr. Middleton, to which reference has so frequently been made. This shows that the true meaning of Mr. Adams' paragraph is the key, and indeed the only key by which the treaties can be correctly interpreted and by which expressions apparently contradictory or unintelligible can be readily harmonized.

Immediately following the partial quotation of Mr. Adams's dispatch, Lord Salisbury quotes the case of the United States brig *Loriot* as having some bearing on the question relating to the Behring Sea. The case happened on the 15th of September, 1836, and Mr. Forsyth, Secretary of State, in a dispatch to the United States minister at St. Petersburg, declared the course of the Russians in arresting the vessel to be a violation of the rights of the citizens of the United States. He claimed that the citizens of the United States had the right immemorially as well as by the stipulations of the treaty of 1824 to fish in those waters.

Lord Salisbury's understanding of the case differs entirely from that held by the Government of the United States. The *Loriot* was not arrested in Behring Sea at all, nor was she engaged in taking furs. She was arrested, as Mr. Forsyth in his dispatch says, in latitude 54:55, more than sixty miles south of Sitka, on the "northwest coast." to which, and to which only, the treaty of 1824 referred. Russia upheld its action on the ground that the ten-year term provided in the fourth article of the treaty had closed two years before. The case was made the basis of an application on the part of the United States Government

for a renewal of that article. This application was pressed for several years, but finally and absolutely refused by the Russian Government. Under the claim of Russia that the term of ten years had expired, the United States failed to secure any redress in the *Loriot* case. With all due respect to Lord Salisbury's judgment, the case of the *Loriot* sustains the entire correctness of the position of the United States in this contention.

It only remains to say that whatever duty Great Britain owed to Alaska as a Russian province, whatever she agreed to do or to refrain from doing, touching Alaska and the Behring Sea, was not changed by the mere fact of the transfer of sovereignty to the United States. It was explicitly declared, in the sixth article of the treaty by which the territory was ceded by Russia, that "the cession hereby made conveys all the rights, franchises, and privileges now belonging to Russia in the said territory or dominions and appurtenances thereto." Neither by the treaty with Russia of 1825, nor by its renewal in 1843, nor by its second renewal in 1859, did Great Britain gain any right to take seals in Behring Sea. In fact, those treaties were a prohibition upon her which she steadily respected so long as Alaska was a Russian province. It is for Great Britain now to show by what law she gained rights in that sea after the transfer of its sovereignty to the United States.

During all the time elapsing between the treaty of 1825 and the cession of Alaska to the United States in 1867, Great Britain never affirmed the right of her subjects to capture fur-seal in the Behring Sea; and, as a matter of fact, her subjects did not, during that long period, attempt to catch seals in the Behring Sea. Lord Salisbury, in replying to my assertion that these lawless intrusions upon the fur-seal fisheries began in 1886, declares that they had occurred before. He points out one attempt in 1870, in which forty-seven skins were found on board an intruding vessel; in 1872 there was a rumor that expeditions were about to fit out in Australia and Victoria for the purpose of taking seals in the Behring Sea; in 1874 some reports were heard that vessels had entered the sea for that purpose; one case was reported in 1875; two cases in 1884; two also in 1885.

These cases, I may say without intending disrespect to his lordship, prove the truth of the statement which he endeavors to controvert, because they form just a sufficient number of exceptions to establish the fact that the destructive intrusion began in 1886. But I refer to them now for the purpose of showing that his lordship does not attempt to cite the intrusion of a single British sealer into the Behring Sea until after Alaska had been transferred to the United States. I am justified, therefore, in repeating the questions which I addressed to Her Majesty's Government on the 22d of last January, and which still remain unanswered, viz:

Whence did the ships of Canada derive the right to do, in 1886, that which they had refrained from doing for nearly ninety years?

Upon what grounds did Her Majesty's Government defend, in the year 1886, a course of conduct in the Behring Sea which had been carefully avoided ever since the discovery of that sea?

By what reasoning did Her Majesty's Government conclude that an act may be committed with impunity against the rights of the United States which had never been attempted against the same rights when held by the Russian Empire?

I have, etc.,

JAMES G. BLAINE.

No. 28.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, June 30, 1890.

SIR: In your note of the 29th of May last, which I duly transmitted to the Marquis of Salisbury, there are several references to communications which passed between the two Governments in the time of your predecessor.

I have now received a dispatch from Lord Salisbury, copy of which I have the honor to inclose, pointing out that there is some error in the impressions which you have gathered from the records in the State Department with respect to those communications.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

The Marquis of Salisbury to Sir Julian Pauncefote.

No. 126.]

FOREIGN OFFICE, June 20, 1890.

SIR: I have to acknowledge your dispatch No. 83 of the 30th ultimo, inclosing copy of a note from Mr. Blaine dated the 29th ultimo.

It contains several references to communications which passed between the two Governments in the time of Mr. Blaine's predecessor, especially in the spring of 1888. Without referring at present to other portions of Mr. Blaine's note I wish only now to point out some error in the impressions which he has gathered from the records in his office with respect to those communications. He states that on the 23d April of that year I informed the American chargé d'affaires, Mr. White, that it was proposed to give effect to a seal convention by order in council, not by act of Parliament. This was a mistake. It was very natural that Mr. White should not have apprehended me correctly when I was describing the somewhat complicated arrangements by which agreements of this kind are brought into force in England. But two or three days after the 23d April he called to make inquiry on the subject, and in reply to his question the following letter was addressed to him by my instructions:

FOREIGN OFFICE, April 27, 1888.

MY DEAR WHITE: Lord Salisbury desires me to express his regret that he is not yet in a position to make any further communication to you on the subject of the seal fisheries in Behring Sea. After his interview with you and M. de Staal he had to refer to the Canadian Government, the Board of Trade, and the Admiralty, but has as yet only obtained the opinion of the Admiralty. The next step is to bring a bill into Parliament.

Yours, etc.,

ERIC BARRINGTON.

On the 28th, Mr. White replied:

LEGATION OF THE UNITED STATES, London, April 28, 1888.

MY DEAR BARRINGTON: Thanks for your note, respecting the final sentence of which, "The next step is to bring a bill into Parliament," I must trouble you with a line.

I understood Lord Salisbury to say when I saw him with M. de Staal, and again last week alone, that it is now proposed to give effect to the conventional arrangement for the protection of seals by an order in council, not by act of Parliament.

When Mr. Phelps left the latter was thought necessary, and last week I received a telegram from the Secretary of State, asking me to obtain confidentially a copy of the proposed act of Parliament, with a view to assimilating our contemplated act of

Congress thereto. I replied, after seeing Lord Salisbury last Saturday, that there would be no bill introduced in Parliament, but an order in council.

May I ask if this be now incorrect, as, in that event, I should particularly like to correct my former statement by this day's mail.

To this the following reply was on the same date addressed to Mr. White:

FOREIGN OFFICE, April 28, 1888.

MY DEAR WHITE: Lord Salisbury is afraid that he did not make himself understood when last he spoke to you about the Seal Fisheries Convention.

An act of Parliament is necessary to give power to our authorities to act on the provisions of the convention when it is signed. The order in council will be merely the machinery which the act will provide for the purpose of bringing its provisions into force. The object of this machinery is to enable the Government to wait till the other two powers are ready. But neither convention nor bill is drafted yet, because we have not got the opinions from Canada which are necessary to enable us to proceed.

Yours, etc.,

ERIC BARRINGTON.

It is evident from this correspondence that if the United States Government was misled upon the 23d April into the belief that Her Majesty's Government could proceed in the matter without an act of parliament, or could proceed without previous reference to Canada, it was a mistake which must have been entirely dissipated by the correspondence which followed in the ensuing week.

Mr. Blaine is also under a misconception in imagining that I ever gave any verbal assurance, or any promise of any kind, with respect to the terms of the projected convention. Her Majesty's Government always have been, and are still, anxious for the arrangement of a convention which shall provide whatever close time in whatever localities is necessary for the preservation of the fur-seal species. But I have represented that the details must be the subject of discussion, a discussion to which those who are locally interested must of necessity contribute. I find the record of the following conversation about the date to which Mr. Blaine refers:

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, March 17, 1888.

SIR: Since forwarding to you my dispatch No. 23 of the 22d ultimo, I have been in communication with the Russian ambassador at this court, and have invited his excellency to ascertain whether his Government would authorize him to discuss with Mr. Phelps and myself the suggestion made by Mr. Bayard in his dispatch of the 7th February, that concerted action should be taken by the United States, Great Britain, and other interested powers, in order to preserve from extermination the fur seals which at certain seasons are found in Behring Sea.

Copies of the correspondence on this question which has passed between M. de Staal and myself is inclosed herewith.

I request that you will inform Mr. Bayard of the steps which have been taken, with a view to the initiation of negotiations for an agreement between the three powers principally concerned in the maintenance of the seal fisheries. But in so doing you should state that this action on the part of Her Majesty's Government must not be taken as an admission of the rights of jurisdiction in Behring Sea exercised there by the United States authorities during the fishing seasons of 1886-'87 and 1887-'88, nor as affecting the claims which Her Majesty's Government will have to present on account of wrongful seizures which have taken place of British vessels engaged in the seal fishing industry.

I am, etc.,

SALISBURY.

In pursuance of this dispatch, the suggestion made by Mr. Bayard, to which I referred, was discussed, and negotiations were initiated for an agreement between the three powers. The following dispatch con-

tains the record of what I believe was the first meeting between the three powers upon the subject :

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, April 16, 1888.

SIR: The Russian Ambassador and the United States chargé d'affaires called upon me this afternoon to discuss the question of the seal fisheries in Behring Sea, which had been brought into prominence by the recent action of the United States.

The United States Government had expressed a desire that some agreement should be arrived at between the three Governments for the purpose of prohibiting the slaughter of the seals during the time of breeding; and, at my request, M. de Staal had obtained instructions from his Government on that question.

At this preliminary discussion it was decided *provisionally, in order to furnish a basis for negotiation, and without definitely pledging our Governments*, that the space to be covered by the proposed convention should be the sea between America and Russia north of the 47th degree of latitude; that the close time should extend from the 15th April to the 1st November; that during that time the slaughter of all seals should be forbidden, and vessels engaged in it should be liable to seizure by the cruisers of any of the three powers, and should be taken to the port of their own nationality for condemnation; that the traffic in arms, alcohol, and powder should be prohibited in all the islands of those seas; and that, as soon as the three powers had concluded a convention, they should join in submitting it for the assent of the other maritime powers of the northern seas.

The United States chargé d'affaires was exceedingly earnest in pressing on us the importance of dispatch, on account of the inconceivable slaughter that had been and was still going on in these seas. He stated that in addition to the vast quantity brought to market, it was a common practice for those engaged in the trade to shoot all seals they might meet in the open sea, and that of these a great number sank, so that their skins could not be recovered.

I am, etc.,

SALISBURY.

It was impossible to state more distinctly that any proposal made was provisional, and was merely made for the purpose of enabling the requisite negotiations to proceed. The subsequent discussion of these proposals was undoubtedly delayed in consequence of the length of time occupied by the Canadian Government in collecting from considerable distances the information which they required before their opinion on the subject could be thoroughly formed, and after that it was delayed, I believe, chiefly in consequence of the political events in the United States unconnected with this question. I think it desirable to correct the misconceptions which have arisen with respect to these transactions, though I do not think that, even if the view of them which is taken by Mr. Blaine is accurate, they would bear out the argument which he founds upon them.

I shall be glad if you will take the opportunity of informing Mr. Blaine of these corrections.

I am, etc.,

SALISBURY.

No. 29.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, June 30, 1890.

SIR: I have received a dispatch from the Marquis of Salisbury with reference to the passage in your note to me of the 4th instant, in which you remark that in 1888 his lordship abruptly closed the negotiations because "the Canadian government objected," and that he "assigned no other reason whatever."

In view of the observations contained in Lord Salisbury's dispatch

of the 20th of June, of which a copy is inclosed in my last preceding note of this date, his lordship deems it unnecessary to discuss at any greater length the circumstances which led to an interruption of the negotiations of 1888.

With regard, however, to the passage in your note of the 4th instant above referred to, his lordship wishes me to call your attention to the following statement made to him by Mr. Phelps, the United States minister in London, on the 3d of April, 1888, and which was recorded in a dispatch of the same date to Her Majesty's minister at Washington.

"Under the peculiar political circumstances of America at this moment," said Mr. Phelps, "with a general election impending, it would be of little use, and indeed hardly practicable, to conduct any negotiation to its issue before the election had taken place."

I have, etc.,

JULIAN PAUNCEFOTE.

No. 30.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,

Washington, July 2, 1890.

SIR: Your note of the 27th ultimo, covering Lord Salisbury's reply to the friendly suggestion of the President, was duly received. It was the design of the President, if Lord Salisbury had been favorably inclined to his proposition, to submit a form of settlement for the consideration of Her Majesty's Government which the President believed would end all dispute touching privileges in Behring Sea. But Lord Salisbury refused to accept the proposal unless the President should "*forthwith*" accept a formal arbitration, which His Lordship prescribes.

The President's request was made in the hope that it might lead to a friendly basis of agreement, and he can not think that Lord Salisbury's proposition is responsive to his suggestion. Besides, the answer comes so late that it would be impossible now to proceed this season with the negotiation the President had desired.

An agreement to arbitrate requires careful consideration. The United States is perhaps more fully committed to that form of international adjustment than any other power, but it can not consent that the form in which arbitration shall be undertaken shall be decided without full consultation and conference between the two Governments.

I beg further to say that you must have misapprehended what I said touching British claims for injuries and losses alleged to have been inflicted upon British vessels in Behring Sea by agents of the United States. My declaration was that arbitration would logically and necessarily include that point. It is not to be conceded, but decided with other issues of far greater weight.

I have the honor to be, sir, etc.,

JAMES G. BLAINE.

No. 31.

Mr. Blaine to Sir Julian Pauncefote.

BAR HARBOR, MAINE, July 19, 1890.

SIR: I regret that circumstances beyond my control have postponed my reply to your two notes of June 30th, which were received on the 1st instant, on the eve of my leaving Washington for this place. The note which came to hand on the forenoon of that day inclosed a dispatch from Lord Salisbury, in which his lordship, referring to my note of May 29th, expresses "a wish to point out some errors" which he thinks I "had gathered from the records in my office."

The purpose of Lord Salisbury is to show that I misapprehended the facts of the case when I represented him, in my note of May 29, as having given such "verbal assurances" to Mr. Phelps as warranted the latter in expecting a convention to be concluded between the two Governments for the protection of the seal fisheries in Behring Sea.

Speaking directly to this point his lordship says:

Mr. Blaine is under a misconception in imagining that I ever gave any verbal assurance or any promise of any kind with respect to the terms of the proposed convention.

In answer to this statement I beg you will say to Lord Salisbury that I simply quoted, in my note of May 29, the facts communicated by our minister, Mr. Phelps, and our chargé d'affaires, Mr. White, who are responsible for the official statements made to this Government at different stages of the seal fisheries negotiation.

On the 25th day of February, 1888, as already stated in my note of May 29th, Mr. Phelps sent the following intelligence to Secretary Bayard, viz:

Lord Salisbury assents to your proposition to establish by mutual arrangement between the Governments interested a close time for fur-seals between April 15th, and November 1st in each year, and between 160 degrees of longitude west, and 170 degrees of longitude east in the Behring Sea. And he will cause an act to be introduced in Parliament to give effect to this arrangement, so soon as it can be prepared. In his opinion there is no doubt that the act will be passed. He will also join the United States Government in any preventive measures it may be thought best to adopt by orders issued to the naval vessels of the respective Governments in that region.

Mr. Phelps has long been known in this country as an able lawyer, accurate in the use of words and discriminating in the statement of facts. The Government of the United States necessarily reposes implicit confidence in the literal correctness of the dispatch above quoted.

Sometime after the foregoing conference between Lord Salisbury and Mr. Phelps had taken place, his lordship invited the Russian ambassador, M. de Staal, and the American chargé, Mr. White (Mr. Phelps being absent from London), to a conference held at the foreign office on the 16th of April, touching the Behring Sea controversy. This conference was really called at the request of the Russian ambassador, who desired that Russian rights in the Behring Sea should be as fully recognized by England as American rights had been recognized in the verbal agreement of February 25 between Lord Salisbury and Mr. Phelps. The Russian ambassador received from Lord Salisbury the assurance (valuable also to the United States), that the protected area for seal life should be extended southward to the 47th degree of north latitude, and also the promise that he would have "a draught

convention prepared for submission to the Russian ambassador and the American chargé."

Lord Salisbury now contends that all the proceedings at the conference of April 16 are to be regarded as only "*provisional, in order to furnish a basis for negotiation, and without definitely pledging our Government.*" While the understanding of this Government differs from that maintained by Lord Salisbury, I am instructed by the President to say that the United States is willing to consider all the proceedings of April 16, 1888, as canceled, so far as American rights may be concerned. This Government will ask Great Britain to adhere only to the agreement made between Lord Salisbury and Mr. Phelps on the 25th of February, 1888. That was an agreement made directly between the two Governments and did not include the rights of Russia. Asking Lord Salisbury to adhere to the agreement of February 25, we leave the agreement of April 16 to be maintained, if maintained at all, by Russia, for whose cause and for whose advantage it was particularly designed.

While Lord Salisbury makes a general denial of having given "verbal assurances," he has not made a special denial touching the agreement between himself and Mr. Phelps, which Mr. Phelps has reported in special detail, and the correctness of which he has since specially affirmed on more than one occasion.

In your second note of June 30, received in the afternoon of July 1, you called my attention (at Lord Salisbury's request) to a statement which I made in my note of June 4 to this effect:

It is evident, therefore, that in 1888 Lord Salisbury abruptly closed the negotiation because, in his own phrase, "the Canadian Government objected."

To show that there were other causes for closing the negotiation Lord Salisbury desires that attention be called to a remark made to him by Mr. Phelps on the 3d day of April, 1888, as follows: "Under the peculiar circumstances of America at this moment, with a general election impending, it would be of little use and indeed hardly practicable to conduct any negotiation to its issue before the general election has taken place."

I am quite ready to admit that such a statement made by Mr. Phelps might now be adduced as one of the reasons for breaking off the negotiation, if in fact the negotiation had been then broken off, but Lord Salisbury immediately proceeded with the negotiation. The remark ascribed to Mr. Phelps was made, as Lord Salisbury states, on the 3d of April, 1888. On the 5th of April Mr. Phelps left London on a visit to the United States. On the 6th of April Lord Salisbury addressed a private note to Mr. White to meet the Russian ambassador at the foreign office, as he had appointed a meeting for April 16 to discuss the questions at issue concerning the seal fisheries in Behring Sea.

On the 23d of April there was some correspondence in regard to an order in council and an act of Parliament. On the 27th of April Under Secretary Barrington, of the foreign office, in an official note, informed Mr. White that "the next step was to bring in an act of Parliament."

On the 28th of April Mr. White was informed that an act of Parliament would be necessary in addition to the order in council, but that "neither act nor order could be draughted until Canada is heard from."

Mr. Phelps returned to London on the 22d of June, and immediately took up the subject, earnestly pressing Lord Salisbury to come to a conclusion. On the 28th of July he telegraphed his Government expressing the "fear that owing to Canadian opposition we shall get no convention."

On the 12th of September Mr. Phelps wrote to Secretary Bayard that Lord Salisbury had stated that "the Canadian Government objected to any such restrictions [as those asked for the protection of the seal fisheries], and that until Canada's consent could be obtained, Her Majesty's Government was not willing to enter into the convention."

I am justified, therefore, in assuming that Lord Salisbury can not recur to the remark of Mr. Phelps as one of the reasons for breaking off the negotiation, because the negotiation was in actual progress for more than four months after the remark was made, and Mr. Phelps himself took large part in it.

Upon this recital of facts I am unable to recall or in any way to qualify the statement which I made in my note of June 4th, to the effect that Lord Salisbury "abruptly closed the negotiation because the Canadian Government objected, and that he assigned no other reason whatever."

Lord Salisbury expresses the belief that even if the view I have taken of these transactions be accurate they would not bear out the argument which I found upon them. The argument to which Lord Salisbury refers is, I presume, the remonstrance which I made by direction of the President against the change of policy by Her Majesty's Government without notice and against the wish of the United States. The interposition of the wishes of a British province against the conclusion of a convention between two nations, which, according to Mr. Phelps, "*had been virtually agreed upon except as to details*," was in the President's belief a grave injustice to the Government of the United States.

I have, etc.,

JAMES G. BLAINE.

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